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1990

URBAN/MUNICIPAL

FEB 21 - MAR 21 1990

AGENDA/MINUTES OF THE
PLANNING AND DEVELOPMENT
COMMITTEE OF COUNCIL

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THE CORPORATION OF THE CITY OF HAMILTON
OFFICE OF THE CITY CLERK

CITY HALL
HAMILTON, ONTARIO
L8N 3T4

TEL: 546-2700
FAX: 546-2095

NOTICE OF MEETING

Planning and Development Committee
Wednesday, 1990 February 21st
9:00 o'clock a.m.
Room 233, City Hall

Susan K. Reeder

Susan K. Reeder
Secretary

ZONING APPLICATIONS WILL BE HEARD
IN THE COUNCIL CHAMBERS

LUNCH WILL BE SERVED AT
12:00 O'CLOCK NOON IN ROOM 264

A G E N D A

1. Minutes of the meetings held Wednesday, 1990 January 3rd and Wednesday, 1990 January 24th.

BUILDING COMMISSIONER

2. Demolition Permit Applications

DIRECTOR OF COMMUNITY DEVELOPMENT

3. Commercial Improvement Programme and Commercial Facade Loan Programme Selection Criterias
4. Commercial Facade Loan Programme Application

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FINANCE AND ADMINISTRATION COMMITTEE

5. Resolution - City of York - Rental Housing Protection Act
 - (a) Report - Director of Community Development

DIRECTOR OF PROPERTY

6. Release of Building Covenants
 - (a) 175 Nebo Road
 - (b) 15 Goderich Road
7. Authorization to include the Industrial Condominium Clause in City Sales
 - (a) Anchor Road
 - (b) Upper Ottawa Street
8. Item deleted

CITY TREASURER

9. Final Release of Holdback

DIRECTOR OF LOCAL PLANNING

10. Proposed Draft Plan of Condominium
 - (a) SA-89-23, John Bruce Robinson Construction Ltd., owner, for property located at the south-west corner of Bigwin Road and Pritchard Road; North Hannon Neighbourhood
 - (b) SA-89-24, Branocon (Hamilton) Ltd., owner, for property located at the north-east corner of Jackson Street West and Caroline Street South
 - (c) SA-89-27, Kingsmount Place Properties I Inc., owner, for property located on the north-west corner of Broughton Avenue and Grayrocks Avenue.

LOCAL ARCHITECTURAL CONSERVATION ADVISORY COMMITTEE

11. Designation of 33 Undermount Avenue

ZONING APPLICATIONS
10:30 O'CLOCK A.M.
COUNCIL CHAMBERS

10:30 O'CLOCK A.M.

12. Subdivision Application 89-29 and Zoning Application 89-117, J. E. Peace, owner, for a change in zoning from "AA" to "R-2" and "C" for property municipally known as No. 322 Mount Albion Road; Red Hill Neighbourhood.
13. Zoning Application 89-118, J. Bellfontaine, owner, for a change in zoning from "AA" to "C" for property at No. 335 Rymal Road East; Barnstown Neighbourhood.

(a) Submission - J. Jackson, Urbex Management Ltd.
14. Zoning Application 89-121, A. Kowalchuk, Lessee, for a further modification to the "E-1" District regulations for property at No. 1035 Main Street East; Crown Point West Neighbourhood

10:45 O'CLOCK A.M.

15. Zoning Application 89-127, Ferrell Builders Supply Limited, owner, for a modification to the "M-12" and "M-14" District regulations for part of property at No. 1519 Rymal Road East; Hannon North Neighbourhood
16. Zoning Application 89-110, D. G. LeBlanc, owner, for a modification to the "D" District regulations for property at 220 Burlington Street East; North End East Neighbourhood
17. Zoning Application 90-01, 815488 Ontario Inc. (N. Bradt), prospective owner, to remove the "H" holding symbol for property at Nos. 1489 to 1495 Upper Gage Avenue; Templemead Neighbourhood
18. Work Programme - Planning Department
19. Other Business.

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|--------------|---|
| 12:00 - 1:00 | Lunch will be served in Room 264 |
| 1:00 - 2:00 | Budget - Building Department
- Committee of Adjustment |
| 2:00 - 2:30 | Budget - Community Development Department |
| 2:30 - 3:30 | Budget - Planning Department |
| 3:30 - 4:15 | Budget - Hamilton Housing
- Mayor's Award Programme |

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Wednesday, 1990 January 3
9:00 o'clock a.m.
Room 233, City Hall

The Planning and Development Committee met.

There were present: Alderman J. Smith, Chairman
Alderman M. Kiss
Alderman D. Christopherson
Alderman D. Drury
Alderman W. McCulloch
Alderman D. Ross
Alderman H. Merling

Regrets: Alderman F. Lombardo, Vice-Chairman - Vacation
Mayor Robert M. Morrow - Civic Business

Also present: Mr. A. Georgieff, Director of Local Planning
Mr. M. Watson, Real Estate Division
Mr. J. Swartz, Regional Planning Department
Mr. K. Brenner, Regional Engineering Department
Mr. B. Allick, Building Department
Mr. P. Lampman, Deputy Building Commissioner
Ms. C. Lee-Morrison, Planning Department
Mr. R. Karl, Traffic Department
Mrs. C. Floroff, Planning Department
Mrs. J. Hickey-Evans, Planning Department
Mrs. N. Chapple, Planning Department
Mr. D. Godley, Planning Department
Ms. L. Lawrence, City Solicitor's Office
Mr. B. Chrystian, Public Works
Mrs. Susan K. Reeder, Secretary

The Committee was in receipt of the minutes of their meetings held Wednesday, 1989 December 15 and Wednesday, 1989 November 29 and approved these minutes.

The Committee was in receipt of an Information Report from the Director of Property dated 1989 December 21, respecting City Initiative - Plan of Subdivision - Wheten Court.

Alderman Merling had requested that this item be placed on the agenda in order that he could speak to it.

Mr. M. Watson of the Real Estate Department reported on this issue and spoke to the above-noted report of the Director of Property.

Discussion ensued on this matter by the Committee and it was agreed by Alderman Merling that he would raise this matter at the next meeting of Hamilton City Council.

The Committee was in receipt of a report from the Commissioner of Engineering dated 1989 December 18 respecting Cash Payment in Lieu of 5% Parkland Dedication for "Eleanor Heights Addition - Phase I".

The Committee approved the following:

That the City of Hamilton accept the sum of \$3,900. as cash payment in lieu of 5% parkland dedication in connection with "Eleanor Heights Addition - Phase One", Hamilton, this being the cash requirement under Section 50 of the Planning Act.

NOTE: These lands are located north of Rymal Road and east of Eleanor Avenue in the Eleanor Neighbourhood, Hamilton.

The Committee was in receipt of a report from the Director of Property dated 1989 December 14, respecting Release of Building Covenants - James Miles, 1154 Rymal Road East, Hamilton - Lot 4, Plan 62M-352, Hamilton Mountain Industrial Park No. 3.

Minutes - 1989 December 15
and 1989 November 29.

City Initiative - Plan
of Subdivision - Wheten
Court.

Cash payment in lieu
of Parkland - "Eleanor
Heights Addition -
Phase I".

Release of Building
Covenants - 1154 Rymal
Road East.

The Committee approved the following:

That the City Solicitor be authorized to prepare a Quit Claim Deed from the City of Hamilton to the present owner of 1154 Rymal Road East, Hamilton, Ontario, to release the property from the construction covenants to the City as contained in deed instrument #205947 LT, registered 1987 July 30.

NOTE: City Council on 1987 June 23, authorized the sale of Lot 4, Registered Plan 62M-352, to James Miles. The transaction was completed on 1987 July 30. On 1989 December 4, the proposed building was completed.

The Director of Property supports the request of the owner that the City of Hamilton release the construction covenants contained in deed number 205947 LT in order to clear the title.

All the covenants as noted above have been fulfilled.

By-law to remove
Part lot control
from Holland Avenue.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 11, respecting By-law to Remove Part-Lot Control from Holland Avenue and Parcel "B", the one foot reserve, R. P. No. 909.

The Committee approved the following:

- (a) That the City of Hamilton adopt a By-law to remove part-lot control from Holland Avenue and Parcel "B", Registered Plan No. 909.
- (b) That the City of Hamilton be directed to prepare the appropriate By-law for presentation to City Council.
- (c) That the Regional Municipality of Hamilton-Wentworth be requested to approve the By-law removing part-lot control on the above-noted parts of Registered Plan No. 909.
- (d) That the By-law not be registered prior to the registration of Aquino Gardens, Phase 1 (25T-88014).
- (e) That the By-law be repealed within 6 months of the date of its registration.

NOTE: The lands are located south of Stone Church Road East and west of Beaverton Drive in the Butler Neighbourhood, City of Hamilton.

Gateway East Study,

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 20, respecting Gateway East Study (Centennial Parkway from Confederation Park to Queenston Road) - Final Recommendations.

Mrs. C. Floroff of the Planning Department outlined the report. General discussion then ensued and the Committee approved the following:

- (a) That approval be given to Official Plan Amendment No. 86 to:
 - (i) Redesignate lands on the west side of Centennial Parkway, between the Q.E.W. interchange and the railway tracks (including the Signature Inn, retail plaza and the Pines Motel and restaurant) from "Industrial" to "Commercial", and remove from Special Policy Area 11 (Light Industrial Uses);

- (ii) Redesignate lands on the east side of Centennial Parkway, north of Barton Street (including the two car dealerships and service station) from "Industrial" to "Commercial", remove from Special Policy Area 11 and placed in a new Special Policy Area limiting commercial development to those uses which support tourism and cater to the travelling public, such as theatres, fitness clubs, car/truck rentals, restaurants, dinner clubs, and similar uses;
 - (iii) Designate all lands within the study area (as shown on the map attached herewith and marked Appendix "A", - Land Uses Concept) as a "Community Improvement Area", as shown as Schedule "H" of the Official Plan;
 - (iv) Incorporate a new policy into the Official Plan recognizing the railway's concerns regarding development adjacent to their lands and directing any future proponents for development/redevelopment to consult with CN regarding drainage, fencing and setbacks; and,
- (b) That the City Solicitor be directed to prepare a by-law to amend the Official Plan for submission to the Regional Municipality of Hamilton-Wentworth.
- (c) That the Planning and Development Department be directed to initiate discussions with the owners of the lands on the east side of Centennial Parkway, north of Barton Street (two car dealerships and service station) for the purpose of ascertaining their intentions for the development/redevelopment of their lands and their receptiveness to initiate rezonings consistent with the Official Plan Amendment noted in (a) above.
- (d) That the Neighbourhood Plans be prepared/amended on the basis of the following:
- (i) Kentley and Riverdale West Neighbourhood Plans be amended for those lands fronting onto Centennial Parkway between Barton Street and Queenston Road in accordance with the Land Use Concept; and,
 - (ii) Neighbourhood Plans be prepared for those portions of Lakely and Nashdale Neighbourhoods fronting onto Centennial Parkway, between the Q.E.W. and Barton Street, in accordance with the Land Use Concept. Special policies recognizing CN's concerns should be recognized for those lands adjacent to the railway line.
 - (iii) That in conjunction with the revision/preparation of these Neighbourhood Plans, urban design guidelines should be established for the entire area and should reflect the concepts articulated in Section 3.0 of the Gateway East Study.
- (e) That Site Plan Control By-laws No. 87-223 and 79-275 be amended to include those lands within the Study Area not now covered by Site Plan Control.
- (f) That actions and priorities as detailed in Table 11 - Implementation Strategy - Design Improvements, attached herewith and marked Appendix "B", be endorsed, and staff be directed to coordinate their implementation with other departments and agencies.
- (g) That the Planning and Development Department, in conjunction with the Community Development Department and the Region's Economic Development Department, be directed to:

- (i) Liaise with the local business people, land owners, etc., in an attempt to establish a local business association for some or all of the study area; and,
 - (ii) In conjunction with (i) above, identify an area theme for promotional purposes.
- (h) That the Region's Engineering Department be advised that with respect to the draft Regional Signage Study, that:
- (i) The Province be requested to consider signing the Centennial Parkway interchange on the Q.E.W. as "Hamilton";
 - (ii) The Province be requested to consider identifying Centennial Parkway as an alternate route to downtown Hamilton; and,
 - (iii) Trail blazer signs be provided for Confederation Park and Wild Water Works.

NOTE: The Gateway East Study (Centennial Parkway from Confederation Park to Queenston Road) was initiated at the request of the Planning and Development Committee and the Executive Committee to study;

- (a) "Ways and means of improving the promotion of the hospitality industry in the City"; and,
- (b) "The present and proposed zoning and development of properties fronting on Highway 20 .. to ensure maximum benefits to the City as a growth area".

Accordingly, the Gateway East Study was undertaken. Its findings were reviewed by the public at an Open House on 1989 August 9 and 10, and a Public Meeting of the Planning and Development Committee on 1989 September 13.

As a result of the public input and comments received from various departments and agencies, the study findings have been refined and the above-noted final recommendations prepared for Committee and Council consideration.

Land Use Review -
Upper James Street
(Wembly to South
Bend Roads)

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 20, respecting Land Use Review - Upper James Street (Wembly to South Bend Roads).

Considerable discussion ensued on this matter between the two Ward Aldermen that represent both sides of the Street and the Committee approved the following:

That the Planning and Development Committee direct staff to schedule a Public Meeting to presents the findings of the Upper James Street (Wembly to South Bend Roads) - west side only - Land Use Review and solicit Public input.

Amendments to the
Albion Falls
Neighbourhood Plan.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 19, respecting Amendments to the Albion Falls Neighbourhood Plan.

The Committee approved the following:

That the approved plan for the Albion Falls Neighbourhood be amended, as shown on the map attached herewith and marked Appendix "C", to reflect proposed pedestrian bridges and closures of roadway sections included in the Red Hill Creek Recreation Master Plan.

NOTE: The Red Hill Creek Recreation Master Plan was prepared to provide a detailed framework to maximize the open space potential within the Red Hill Creek Valley, in the vicinity of the approved roadway facility. The Plan includes pedestrian trails and bridges and year-round recreational facilities. The Plan was finalized during 1988-1989, and underwent public review, submissions and revisions. It received approval from the Parks and Recreation Committee on 1989 December 5, and was adopted by City Council on 1989 December 12.

The Master Plan takes into consideration various recreational needs, including the need for pedestrian crossings of the Proposed Mountain Freeway, both above and below the escarpment. Such crossings by means of bridges and underpasses, are necessary to access schools, community facilities, etc. There are also a number of roadway section closures in the vicinity of the proposed roadway, in locations where grade separations are not warranted.

The Albion Falls Neighbourhood Plan should be amended to reflect the pedestrian overpasses and roadway section closures as outlined above, to ensure that it is consistent with the approved Recreation Master Plan.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 14, respecting Proposed Renaming of a part of Cannon Street West.

Proposed renaming of a part of Cannon Street West.

Discussion ensued on this matter and the Committee approved the following:

That the proposed name change to Cannon Boulevard NOT be recommended for approval.

The Committee was asked to table Item 10 of their Agenda, respecting Designation - MacNab-Charles Heritage Conservation District. The Director of Local Planning advised that the lengthy background documents are not prepared at this time and that this matter will be brought back to the next meeting of the Committee.

Designation - MacNab-Charles Heritage Conservation District.

Accordingly, the Committee agreed to table this matter to the next meeting.

At this point the Committee moved to the City Hall Council Chambers to hear Zoning Applications.

Zoning Applications.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 18, respecting Amended Zoning Application 89-86, for property at 780 Upper Paradise Road.

ZA89-86 - 780 Upper Paradise Road.

Report of the circularization was given as follows:

175 notices sent : -3 in favour 4 opposed

The Committee was in receipt of a Letter of Submission on this matter from Mr. E. A. Simpson, 800 Upper Paradise Road, Unit 37.

The Committee discussed this matter and approved the following:

That approval be given to amended Zoning Application 89-86, Renata Golba and Mirosław Chuchla, owners, requesting a change in zoning from "AA" (Agricultural) District to "DE" (Low Density Multiple Dwellings) District to permit a multiple dwelling having a maximum of four dwelling units, for property located at 780 Upper Paradise Road, as shown on the attached map marked as Appendix "D", on the following basis:

- (a) That the subject lands be rezoned from "AA" (Agricultural) District to "DE" (Low Density Multiple Dwellings) District;

- (b) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map W-37B for presentation to City Council;
- (c) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area; and,
- (d) That the approved Gurnett Neighbourhood Plan be amended by redesignating the lands to "Attached Housing".

NOTE: The purpose of the By-law is to provide for a change in zoning from "AA" (Agricultural) District to "DE" (Low Density Multiple Dwellings) District for property located at 780 Upper Paradise Road.

The effect of the proposed change in zoning is to permit the construction of a multiple dwelling having a maximum of four (4) dwelling units. The existing building would be demolished.

ZA 89-97 - 1000 Upper
Gage Avenue.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 18, respecting an Amended Zoning Application 89-97, for property at 1000 Upper Gage Avenue.

Alderman Merling, the Ward Alderman advised that several letters as well as a petition had been received from people in the area objecting to the original application which was requesting permission to open a skate board facility and a non-alcoholic club on this property.

The Alderman pointed out that the amended application before the Committee has been changed to permit a shopping centre identification sign only on the property and not a skate board facility as originally proposed.

The Committee then approved the following application:

That approval be given to amended Zoning Application 89-97, Joseph Greenbaum, owner, requesting a further modification to the established "G" (Neighbourhood Shopping Centre, etc.) District regulations to permit a shopping centre identification sign on property located at 1000 Upper Gage Avenue, as shown on the attached map marked as Appendix "E", on the following basis:

- (a) That the "G" (Neighbourhood Shopping Centre, etc.) District regulations as contained in Section 13 of Zoning By-law No. 6593, as amended by By-law No. 86-115, applicable to the subject lands, be further modified to include the following variances as special provisions:
 - (i) That notwithstanding the provisions of Section 13.(1) of Zoning By-law No. 6593 a shopping centre identification sign having a maximum sign area of 12m² shall be permitted subject to the provisions of Section 13A(1)(xii) 3 and 5;
 - (ii) That notwithstanding the provisions of Section 13.(3) of Zoning By-law No. 6593 the shopping centre identification sign shall be set back a minimum of 3.0m from any street line;
 - (iii) That the shopping centre identification sign shall be set back a minimum of 3.0m from the nearest access driveway;
 - (iv) That the shopping centre identification sign shall have a minimum clear height of 3.0m from the ground to the bottom of the sign.

- (b) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as schedule S-156C, and that the subject lands on Zoning District Map E-38A be notated S-156C;
- (c) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-38A for presentation to City Council;
- (d) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning area.

NOTE: The purpose of the By-law is to provide for a modification to the "G" (Neighbourhood Shopping Centre, etc.) District regulations, applicable to property located at 1000 Upper Gage Avenue.

The effect of the By-law is to permit a shopping centre identification sign to be located on the site subject to the following restrictions:

- (a) A maximum sign area of 12m²;
- (b) The sign shall be located at a distance of not less than 3.0m from a street-line or access driveway; and
- (c) The sign shall have a height of at least 3.0m from the ground to the bottom of the sign.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 13, respecting Amended Zoning Application 89-106, for property at the rear of 323 Rymal Road East.

ZA 89-106 - rear of
323 Rymal Road East.

The Committee approved the following:

That approval be given to amended Zoning Application 89-106, Eric Miles, owner, requesting a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District to permit single-family residential development for property located at the rear of 323 Rymal Road East, as shown on the attached map marked as Appendix "F", on the following basis:

- (a) That the subject lands be rezoned from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District;
- (b) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Maps E-18D and E-18E for presentation to City Council; and,
- (c) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

NOTE: The purpose of the By-law is to establish a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District for property located at the rear of 323 Rymal Road East.

The effect of the By-law is to sever the subject property to create four (4) building lots for single-family dwellings, fronting onto Bastille Street.

At this point, there was a break in the timing for Zoning Applications and some of the Aldermen expressed concerns at the Zoning Applications signs which are remaining up for lengthy periods after decisions have been made on that particular application.

Zoning Application
signs.

- (b) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map W-37B for presentation to City Council;
- (c) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area; and,
- (d) That the approved Gurnett Neighbourhood Plan be amended by redesignating the lands to "Attached Housing".

NOTE: The purpose of the By-law is to provide for a change in zoning from "AA" (Agricultural) District to "DE" (Low Density Multiple Dwellings) District for property located at 780 Upper Paradise Road.

The effect of the proposed change in zoning is to permit the construction of a multiple dwelling having a maximum of four (4) dwelling units. The existing building would be demolished.

ZA 89-97 - 1000 Upper
Gage Avenue.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 18, respecting an Amended Zoning Application 89-97, for property at 1000 Upper Gage Avenue.

Alderman Merling, the Ward Alderman advised that several letters as well as a petition had been received from people in the area objecting to the original application which was requesting permission to open a skate board facility and a non-alcoholic club on this property.

The Alderman pointed out that the amended application before the Committee has been changed to permit a shopping centre identification sign only on the property and not a skate board facility as originally proposed.

The Committee then approved the following application:

That approval be given to amended Zoning Application 89-97, Joseph Greenbaum, owner, requesting a further modification to the established "G" (Neighbourhood Shopping Centre, etc.) District regulations to permit a shopping centre identification sign on property located at 1000 Upper Gage Avenue, as shown on the attached map marked as Appendix "E", on the following basis:

- (a) That the "G" (Neighbourhood Shopping Centre, etc.) District regulations as contained in Section 13 of Zoning By-law No. 6593, as amended by By-law No. 86-115, applicable to the subject lands, be further modified to include the following variances as special provisions:
 - (i) That notwithstanding the provisions of Section 13.(1) of Zoning By-law No. 6593 a shopping centre identification sign having a maximum sign area of 12m² shall be permitted subject to the provisions of Section 13A(1)(xii) 3 and 5;
 - (ii) That notwithstanding the provisions of Section 13.(3) of Zoning By-law No. 6593 the shopping centre identification sign shall be set back a minimum of 3.0m from any street line;
 - (iii) That the shopping centre identification sign shall be set back a minimum of 3.0m from the nearest access driveway;
 - (iv) That the shopping centre identification sign shall have a minimum clear height of 3.0m from the ground to the bottom of the sign.

- (b) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as schedule S-156C, and that the subject lands on Zoning District Map E-38A be notated S-156C;
- (c) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-38A for presentation to City Council;
- (d) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning area.

NOTE: The purpose of the By-law is to provide for a modification to the "G" (Neighbourhood Shopping Centre, etc.) District regulations, applicable to property located at 1000 Upper Gage Avenue.

The effect of the By-law is to permit a shopping centre identification sign to be located on the site subject to the following restrictions:

- (a) A maximum sign area of 12m²;
- (b) The sign shall be located at a distance of not less than 3.0m from a street-line or access driveway; and
- (c) The sign shall have a height of at least 3.0m from the ground to the bottom of the sign.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 13, respecting Amended Zoning Application 89-106, for property at the rear of 323 Rymal Road East.

ZA 89-106 - rear of
323 Rymal Road East.

The Committee approved the following:

That approval be given to amended Zoning Application 89-106, Eric Miles, owner, requesting a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District to permit single-family residential development for property located at the rear of 323 Rymal Road East, as shown on the attached map marked as Appendix "F", on the following basis:

- (a) That the subject lands be rezoned from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District;
- (b) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Maps E-18D and E-18E for presentation to City Council; and,
- (c) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

NOTE: The purpose of the By-law is to establish a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District for property located at the rear of 323 Rymal Road East.

The effect of the By-law is to sever the subject property to create four (4) building lots for single-family dwellings, fronting onto Bastille Street.

At this point, there was a break in the timing for Zoning Applications and some of the Aldermen expressed concerns at the Zoning Applications signs which are remaining up for lengthy periods after decisions have been made on that particular application.

Zoning Application
signs.

Mr. P. Mallard of the Planning Department advised that a letter is sent to the applicants advising of the Committee's decision as well as directing them to take the sign down. He also added that a follow up letter is sent to the applicant if the Planning Department is notified of non-compliance in having the sign taken down.

Following discussion on this matter, the Committee approved the following:

That the Public Notification Procedure for Sign Posting Requirements for Zoning Applications, approved by City Council on 1987 March 10th, be amended to require that the Planning Department advise the applicant that the sign must be removed 30 days after the By-law comes into effect, or 30 days after City Council has denied the application.

ZA 89-42 - north of Rymal Road East between Upper Sherman Avenue and Upper Wentworth Street and SA 89-13.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 20, respecting Amended Zoning Application 89-42, for property for the lands north of Rymal Road East between Upper Sherman Avenue and Upper Wentworth Street.

The report also respected Subdivision Application SA-89-13, for a Draft Plan of Subdivision north of Rymal Road East between Upper Wentworth Street and Upper Sherman Avenue..

The Committee approved the following:

- (a) That approval be given to Official Plan Amendment No. 85 to redesignate the northerly portion of Block "1" from "Utilities" to "Residential" and the City Solicitor be directed to prepare a By-law for submission to the Regional Municipality of Hamilton-Wentworth.
- (b) That approval be given to amended Zoning Application 89-42, Rymal Square Developments Inc., owner, requesting changes in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District (Blocks "1" and "2"), "R-4" (Small Lot Single-Family Detached) District (Block "3"), "RT-20" (Townhouse-Maisonette) District modified (Blocks "4", "5", "6" and "7"), "DE-3" (Multiple Dwellings) District (Blocks "8", "9" and "10"), "E-2" (Multiple Dwellings) District (Blocks "11", "12" and "13"), and "G-1" (Designed Shopping Centres) District (Block "14"), to permit the development of the subject lands for single-family dwellings (Blocks "1" and "2"), small lot single-family dwellings (Block "3"), townhouses (Blocks "4" to "7"), low density apartments (Blocks "8" to "10"), medium density apartments (Blocks "11" to "13") and a shopping plaza (Block "14" in conjunction with the lands to the south), for the lands north of Rymal Road East between Upper Sherman Avenue and Upper Wentworth Street, as shown on the attached map marked as Appendix "G", on the following basis:
 - (i) That Blocks "1" and "2" be rezoned from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District;
 - (ii) That Blocks "3" be rezoned from "AA" (Agricultural) District to "R-4" (Small Lot Single-Family Detached) District;
 - (iii) That Blocks "4", "5", "6" and "7" be rezoned from "AA" (Agricultural) District to "RT-20" (Townhouse-Maisonette) District;
 - (iv) That Blocks "8", "9" and "10" be rezoned from "AA" (Agricultural) District to "DE-3" (Multiple Dwellings) District;

- (v) That Blocks "11", "12" and "13" be rezoned from "AA" (Agricultural) District to "E-2" (Multiple Dwellings) District;
- (vi) That Block "14" be rezoned from "AA" (Agricultural) District to "G-1" (Designed Shopping Centre) District;
- (vii) That the "RT-20" (Townhouse-Maisonette) District regulations contained in Section 10E of Zoning By-law No. 6593, applicable to Blocks "4", "5", "6" and "7", be modified to include the following variance as a special requirement:
 - (1.) That Section 10E (2)(a)(3) shall be prohibited.
- (viii) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1156, and that Blocks "4", "5", "6" and "7" on Zoning District Map E-27D be notated S-1156;
- (ix) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-27D for presentation to City Council;
- (x) That the proposed change in zoning will be in conformity with the Official Plan for the Hamilton Planning Area upon the approval of Official Plan Amendment No. 85 by the Regional Municipality of Hamilton-Wentworth.
- (xi) That the Neighbourhood Plan be amended accordingly.

NOTE: The purpose of the By-law is to provide for changes in zoning from the lands located north of Rymal Road East, between Upper Wentworth Street and Upper Sherman Avenue, on the following basis:

- (a) Change in Zoning from "AA" (Agricultural) District to:
 - (i) Blocks "1" and "2" - "C" (Urban Protected Residential, etc.) District;
 - (ii) Blocks "3" - "R-4" (Small Lot Single-Family Detached) District;
 - (iii) Blocks "4" to "7" - "RT-20" (Townhouse-Maisonette) District modified;
 - (iv) Blocks "8" to "10" - "DE-3" (Multiple Dwellings) District;
 - (v) Blocks "11" to "13" - "E-2" (Multiple Dwellings) District;
 - (vi) Block "14" - "G-1" (Designed Shopping Centres) District.
- (b) The effect of the by-law is to permit the development of the subject lands for:
 - (i) Blocks "1" and "2" - single family dwellings;
 - (ii) Block "3" - small lot single-family dwellings;
 - (iii) Blocks "4" to "7" - townhouses and maisonettes (no street townhouses);
 - (iv) Blocks "8" to "10" - low density apartments;

- (v) Blocks "11" to "13" - medium density apartments;
- (vi) Block "14" - shopping centre (in conjunction with lands to the south)

SA 89-13 - north of
Rymal Road East
between Upper Wentworth
and Upper Sherman.

- (a) That approval be given to Subdivision Application 89-13, Rymal Square Developments Inc., owner, to establish a draft plan of subdivision north of Rymal Road East between Upper Wentworth Street and Upper Sherman Avenue, subject to the following conditions:
 - (i) That the approval apply to the plan prepared by MacKay, MacKay and Peters Ltd., dated 1989 March 15, revised to show 174 lots for single-family dwellings, 50 lots for small lot single-family dwellings, Blocks "230", "231", "234" and "235" for townhouse and maisonette development, Blocks "225", "229" and "233" for low density apartments, Blocks "226", "227" and "228" for medium density apartments, Block "232" for a shopping centre, Blocks "236" and "237" for development with adjacent lands, Blocks "238" to "241" inclusive for road widenings, and Block "242" as a planting strip (in conjunction with Block "232").
 - (ii) That all streets within the final plan be established to their full required width either through acquisition by the owner or where required by By-law of the City of Hamilton.
 - (iii) That Street "B" align with the sewer easement shown on Sewer Plan 88-S-56 east of Upper Wentworth Street.
 - (iv) That the streets and the street widenings and daylighting for Rymal Road East, Upper Wentworth Street and Upper Sherman Avenue be dedicated to the City of Hamilton as public highways on the final plan.
 - (v) That the streets be named to the satisfaction of the City of Hamilton and the Regional Municipality of Hamilton-Wentworth.
 - (vi) That the final plan conform with the Zoning By-law approved under The Planning Act.
 - (vii) That such easements as may be required for utility or drainage purposes be granted to the appropriate authority.
 - (viii) That the owner provide the City of Hamilton with a certified list showing the net area and width of each lot and block in the final plan.
 - (ix) That the owner make a cash payment in lieu of the conveyance of 5% of the land included in the plan to the City of Hamilton for park purposes.
 - (x) That Blocks "236" and "237" be developed with abutting lands.
 - (xi) That any dead-ends and open sides of the road allowances created by the plan be terminated in 0.3m reserves to be conveyed to the City of Hamilton and be held by the City until required for the future extension of the road allowances or development of adjacent lands.
 - (xii) That 2m x 2m daylight triangles be established on all L-shaped streets.

- (xiii) That the streets align with those to be established by the plan to the north.
- (xiv) That the owner shall erect a sign in accordance with Section XI of the subsequent Subdivision Agreement prior to the issuance of a final release by the City of Hamilton.
- (xv) That the owner agree in writing to satisfy all the requirements, financial and otherwise, of the City of Hamilton.
- (b) That the Subdivision Agreement be entered into by the Corporation of the City of Hamilton and the owner to provide for compliance with the conditions of approval established by the Hamilton-Wentworth Region with respect to this application (SA-89-13), Rymal Square Developments Inc., owner, proposed draft plan of subdivision, and that the City execute the agreement when the said conditions have been met and the City's share of the cost of installing municipal services has been approved by City Council.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 12, respecting Subdivision Application SA-89-15, for a Draft Plan of Subdivision located on the east side of Eleanor Avenue and on the north side of Dulgaren Street.

The report also contained a report on Zoning Application 89-72, for property at the rear of 77 Eleanor Avenue.

The Committee approved the following:

- (a) That approval be given to Subdivision Application 89-15, "Sgro Gardens", Vito and Angela Sgro, owners, to establish a draft plan of subdivision located on the east side of Eleanor Avenue and on the north side of Dulgaren Street in the Eleanor Neighbourhood, subject to the following conditions:
 - (i) That this approval apply to the plan prepared by A. J. Clarke and Associates Ltd., dated 1989 May 17, revised by locating Mentino Crescent to align centre line to centre line with Presidio Drive and by providing part of a turning circle.
 - (ii) That the final plan conform with the Zoning By-law approved under The Planning Act.
 - (iii) That such easements as may be required for utility or drainage purposes be granted to the appropriate authority.
 - (iv) That the owner make a cash payment in lieu of the conveyance of 5% of the land included in the plan to the City of Hamilton for park purposes.
 - (v) That the owner provide the City of Hamilton with a certified list showing the net area and width of each lot and block in the final plan.
 - (vi) That the owner provide sufficient lands for a turning circle at the location of Lot 15 and Lot 16.
 - (vii) That the plan not receive final approval prior to the approval of services on Dulgaren Street.

SA 89-15 - east side of Eleanor Avenue and on the north side of Dulgaren Street.

ZA 89-72 - rear of 77 Eleanor Avenue.

- (viii) That the owner shall erect a sign in accordance with Section XI of the subsequent Subdivision Agreement prior to the issuance of a final release by the City of Hamilton.
- (ix) That the owner agree, in writing, to satisfy all the requirements, financial and otherwise, of the City of Hamilton.
- (b) That a Subdivision Agreement be entered into by the Corporation of the City of Hamilton and the owner to provide for compliance with the conditions of approval established by the Hamilton-Wentworth Region with respect to this application (SA-89-15), V. & A. Sgro, owners, and that the City execute the agreement when the said conditions have been met and the City's share of the cost of installing municipal service has been approved by City Council.

That approval be given to Zoning Application 89-72, Vito and Angela Sgro, owners, requesting a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District for property located at the rear of 77 Eleanor Avenue, as shown on the attached map marked as Appendix "H", on the following basis:

- (a) That the subject lands be rezoned from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District;
- (b) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Maps E-38C and E-38D for presentation to City Council; and,
- (c) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

NOTE: The purpose of the By-law is to establish a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District for property located at the rear of 77 Eleanor Avenue.

The effect of the By-law is to subdivide the subject property into building lots for single-family dwellings.

ZA 88-111 - 829,
837, 845 and 867
Rymal Road East.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 18, respecting Zoning Application 88-111, for property located at 829, 837, 845 and 867 Rymal Road East.

Report of the circularization was given as follows:

299 notices sent	3 in favour	4 opposed
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The Committee was in receipt of a Letter of Submission from Mr. John A. Parente, Barrister and Solicitor, agent for the applicants as well as a petition respecting rezoning application ZA-88-111.

Mr. Harnden, owner of the property directly to the north of Block 1 in the development spoke and expressed concerns at the impact that approval of this recommendation would have on his property.

Mr. Parente, Lawyer on behalf of the owners, spoke to the Committee and made mention of the petition which the Committee was in receipt of. He also spoke on the reasons that the application should be approved.

Following discussion on this matter the Committee approved the following DENIAL recommendation of this application:

That Zoning Application 88-111, J. Calzonetti, owner, requesting changes in zoning from "AA" (Agricultural) District to "H" (Community Shopping and Commercial, etc.) District (Block "1"), and "C" (Urban Protected Residential, etc.) District to "H" (Community Shopping and Commercial, etc.) District (Block "2"), to permit the construction of a strip commercial plaza, for the properties located at 829, 837, 845 and 867 Rymal Road East, as shown on the attached map marked as Appendix "I", be DENIED for the following reasons:

- (a) The proposal conflicts with the intent of the Official Plan which designates the majority of the lands "Residential".
- (b) It conflicts with the recently approved Eleanor Neighbourhood Plan which designates the site "Commercial and Apartments" (minimum 50% residential), "Attached Housing" and "Single and Double Housing". The intent of the "Commercial and Apartments" designation is to allow for mixed use developments and not solely for commercial purposes.
- (c) Approval of the application may encourage other similar applications, which, if approved, would undermine the intent of the Official Plan and Neighbourhood Plan.

Mr. P. Mallard of the Planning Department spoke to the Committee on some difficulties that had been discovered with respect to a recently compiled by-law respecting property at 1066 Upper James Street (Red Lobster). He advised that after reviewing the by-law some difficulties came to their attention which require that the by-law needs to be amended to reflect the intent of the resolution.

By-law for 1066 Upper
James Street (Red
Lobster).

The Committee approved that the appropriate resolution be forwarded to City Council in order that the necessary amendments can be made to this matter.

- (a) That By-law 89-365 be repealed in its entirety.
- (b) That Section 10 of the 23rd Report for 1988 of the Planning and Development Committee approved by City Council on 1988 November 29, be repealed in its entirety, and replaced with the following:
 - (i) That approval be given to Zoning Application 88-82, Red Lobster Canada, lessee, for a change in zoning from "AA" (Agricultural) District to "G-3" (Public Parking Lots) District, to permit the use of the land for a parking lot in conjunction with the Red Lobster restaurant, for property located at the rear of 1066 Upper James Street, as shown on the attached map marked as Appendix "J", on the following basis:
 - (1.) That the subject lands be rezoned from "AA" (Agricultural) District to "G-3" (Public Parking Lots) District;
 - (2.) That the "G-3" (Public Parking Lots) District regulations as contained in Section 13C of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following variances as special requirements:
 - (a) Notwithstanding Section 13C(3)(ii) of Zoning By-law No. 6593, a minimum 3.0m wide landscaped planting strip shall be provided and maintained along the northerly and westerly lot lines, and a minimum 1.5m wide landscaped planting strip shall be provided and maintained along the southerly lot line.

- (b) Notwithstanding Section 13C(3)(iii) of Zoning By-law No. 6593, a visual barrier not less than 1.2m and not greater than 2.0m in height shall be provided and maintained along the northerly, southerly and westerly lot lines.
 - (3.) That the amending by-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1103, and that the subject lands on Zoning District Map W-9A be notated S-1103;
 - (4.) That the City Solicitor be directed to prepare a by-law to amend Zoning By-law No. 6593 and Zoning District Map W-9A for presentation to City Council;
 - (5.) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area;
 - (6.) That the Yeoville Neighbourhood Plan be amended by redesignating the subject lands from "Single and Double Housing" to "Commercial".
- (c) That the amending by-law not be forwarded to City Council for passage until such time as the required site plan is approved by the Planning and Development Committee.

NOTE: The purpose of the by-law is to provide for a change in zoning from "AA" (Agricultural) District to "G-3" (Public Parking Lots) District.

The effect of the by-law is to permit a parking lot in conjunction with the Red Lobster restaurant located at 1066 Upper James Street.

In addition, the by-law will require the following:

- (a) A minimum 3.0m wide landscaped planting strip to be provided and maintained along the northerly and westerly lot lines;
- (b) A minimum 1.5m wide landscaped planting strip to be provided and maintained along the southerly lot line; and,
- (c) A visual barrier not less than 1.2m and not greater than 2.0m in height to be provided and maintained along the northerly, southerly and westerly lot lines.

NOTE: Alderman Drury and Alderman Kiss opposed.

Staff reports -
Committee of Adjustment.

Alderman Christopherson spoke to the Committee with respect to the Staff Reports sent to the Committee of Adjustment. He expressed concern that the Committees are receiving these comments from the Planning Department and Building Department in a very short time frame and feels frustrated in dealing with constituents cases when he has not had an opportunity to review a report which he has only received hours before the hearing takes place.

Alderman Merling commented on this matter as well and agreed that staff comments should be in to the Secretary of the Committee of Adjustment at least 48 hours before the meeting takes place.

Secretary's note: Following the meeting it was brought to the Secretary's attention that staff comments from the Traffic Department are also being received on a very late basis.

Staff attendance -
O.M.B. Hearings.

Alderman Drury spoke to the Committee with respect to Planning staff attending an upcoming O.M.B. Hearing in support of a Committee of Adjustment decision being appealed.

Considerable discussion ensued on this matter and the process presently in place for staff attending O.M.B. Hearings. It was indicated that if the Ontario Municipal Board Chairman wishes to have Planning Department staff speak at a hearing that they should subpoena the Planning staff to attend that particular hearing.

There being no further business, the meeting then adjourned.

Adjournment.

Taken as read and approved,

ALDERMAN J. SMITH, CHAIRMAN
PLANNING AND DEVELOPMENT COMMITTEE

Susan K. Reeder
Secretary
1990 January 3rd

Wednesday, 1990 January 24
9:00 o'clock a.m.
Room 233, City Hall

The Planning and Development Committee met.

There were present: Alderman J. Smith, Chairman
Alderman F. Lombardo, Vice-Chairman
Mayor Robert M. Morrow
Alderman M. Kiss
Alderman H. Merling
Alderman W. McCulloch
Alderman D. Christopherson
Alderman D. Drury

Regrets: Alderman D. Ross - Family Bereavement

Also present: Alderman T. Jackson
Alderman T. Murray
Mr. A. Georgieff, Director of Local Planning
Mr. J. Swartz, Regional Planning Department
Mr. M. Watson, Real Estate Division
Mr. B. Allick, Building Department
Mr. D. Pickard, Building Department
Mr. W. Wong, Building Department
Mr. R. Karl, Traffic Department
Mrs. J. Hickey-Evans, Planning Department
Mr. K. Brenner, Regional Engineering Department
Ms. L. Lawrence, City Solicitor's Office
Mrs. S. K. Reeder, Secretary

The Committee was in receipt of the minutes of their meeting held Wednesday, 1989 December 13 and approved those minutes.

Minutes - 1989
December 13.

The Committee was in receipt of a report from the Building Commissioner dated 1989 January 17, respecting Demolition Permit Applications.

Demolition Permit
Applications.

The Committee approved the following:

That the Building Commissioner be authorized to issue demolition permits for the following properties:

- (a) 230 Eleanor Avenue
- (b) 74 Melbourne Street
- (c) 401 Sherman Avenue North
- (d) 91 Arbour Road
- (e) 30 Queensdale Avenue West
- (f) 337 East Avenue North
- (g) 1198 Stone Church Road East

The Committee was in receipt of a report from the Building Commissioner dated 1990 January 3, respecting Appointment of Inspectors under the Building Code Act.

Appointment of
Inspectors under
The Building Code Act.

The Committee approved the following:

That the City Solicitor be authorized to amend By-law 87-312 as follows:

- (a) That Section 6(a) be amended by adding the name:
Wak-Kuen Wong, P. Eng.
- (b) That Section 8(a) be amended by deleting the name:
Wak-Kuen Wong, P. Eng.

- (c) That Section 9(a) be amended by deleting the name:

Gerald N. Farrell

- (d) That Section 9(a) be amended by adding the names:

Natalie Gould

Glen McCrory

NOTE: Due to recent changes in the staff of the Building Department, By-law 87-312 respecting the Appointment of Inspectors needs to be amended to accommodate these changes.

Release of Building
Covenants - Lakely
Industrial Estates
No. 1.

The Committee was in receipt of a report from the Director of Property dated 1990 January 8, respecting Release of Building Covenants - Louis Filo, 211-229 Lanark Street, Hamilton - Lot 6, Plan 1309 - Lakely Industrial Estates No. 1.

The Committee approved the following:

That the City Solicitor be authorized to prepare a Quit Claim Deed from the City of Hamilton to the present owner of 211-229 Lanark Street, Hamilton, Ontario to release the property from the construction covenants to the City as contained in deed instrument #103418 A.B. registered 1968 September 4.

NOTE: In adopting Section 37 of the Board of Control Report, City Council on 1968 February 27, authorized the sale of Lot 6, Registered Plan 1309 to Louis Filo. The transaction was completed on 1968 September 4. The proposed building was completed.

All the covenants as noted above have been fulfilled.

Proposed expropriation
Part of Lot 9,
Concession 1, Township
of Barton and part
of Reserve Registered
Plan 547.

The Committee was in receipt of a report from the Acting City Solicitor dated 1990 January 9, respecting proposed Expropriation of Part of Lot 9, Concession 1, geographic Township of Barton and part of Reserve Registered Plan 547.

The Committee approved the following:

- (a) That a By-law to expropriate, under Section 34(8) of The Planning Act, 1983, lands and structures which do not conform with a by-law passed under Section 34 which land is described as Parts 1, 2 and 4 together with a right-of-way over Part 3 on Survey 62R-10267 (measuring approximately 30.08 feet by 93.39 feet) be enacted by Council.

- (b) That the City Solicitor be directed to prepare the appropriate By-law for presentation to City Council.

NOTE: As authorized by Council at its meeting of 1989 June 27, Notice of the City's intention to expropriate this land has been advertised and served upon all persons having an interest in this land and no request for an inquiry hearing into the proposed expropriation has been received.

The next step in this expropriation under The Expropriations Act is for Council to enact the Expropriation By-law which will authorize the registration of the City's Expropriation Plan. This land is required to remove residential uses from the Industrial areas in the Alpha Enclave.

Final Release of
Holdback - Delmar
Contracting Ltd.

The Committee was in receipt of a report from the City Treasurer dated 1990 January 3, respecting Final Release of Holdback.

The Committee approved the following:

That total holdback in the amount of \$4,620.98 be released to Delmar Contracting Limited, for the completion of P. O. No. 19070, for the Downtown Hamilton Action Plan Streetscape Phase II, pending receipt by the Treasury of the Standard Release Forms from the Contractor and City Solicitor's Department.

The Committee was in receipt of a report from the City Treasurer dated 1989 December 12, respecting Final Release of Holdback.

Final Release of
Holdback - Associated
Paving Company Limited.

The Committee approved the following:

That total holdback in the amount of \$6,998.69 be released to Associated Paving Company Limited, for the completion of Contract No. 30971 for the construction of Corktown-Stinston O.N.I.P. - Parking and Driveway Facilities, pending receipt by the Treasury of the Standard Release Forms from the Contractor and City Solicitor's Department.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 12, respecting Proposed Draft Plan of Condominium Application SA-89-20, for property on the north-westerly corner of James Street and Main Street.

Proposed Draft Plan
of Condominium SA 89-20 -
north-westerly corner of
James and Main Streets.

The Committee approved the following:

That approval be given to Proposed Draft Plan of Condominium Application SA-89-20 "Pigott and Sunlife Buildings", Reemark Heritage Gardens Limited, owner, to establish a draft plan of condominium located on the north-westerly corner of James Street and Main Street, subject to the following conditions:

- (a) That this approval apply to the plan prepared by Yates & Yates, O.L.S., dated 1989 May 5.
- (b) That the owner agree in writing to satisfy the financial requirements of the Regional Municipality of Hamilton-Wentworth.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 15, respecting Proposed Draft Plan of Condominium Application SA-89-30, for property on the south side of Rymal Road East and west of Derby Street.

Proposed Draft Plan of
Condominium SA 89-30 -
south side of Rymal Road
East and west of
Derby Street.

The Committee approved the following:

That approval be given to Proposed Draft Plan of Condominium Application SA-89-30 "Kingsmount Place II", T. Valeri Construction Ltd., owner, to establish a draft plan of condominium located on the south side of Rymal Road East and west of Derby Street, subject to the following conditions:

- (a) That this approval apply to the plan prepared by J. D. Barnes Limited, dated 1989 October 17, showing 47 townhouse units.
- (b) That the owner agree in writing to satisfy all financial requirements of the Regional Municipality of Hamilton-Wentworth.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 15, respecting Proposed Draft Plan of Condominium Application SA-89-32, for property at the south-west corner of Rymal Road East and Derby Street.

Proposed Draft Plan of
Condominium SA 89-32 -
south west corner of Rymal
Road East and Derby Street.

The Committee approved the following:

That approval be given to Proposed Draft Plan of Condominium Application SA-89-32, T. Valeri Construction Limited, owner, to establish a draft plan of condominium located at the south-west corner of Rymal Road East and Derby Street, subject to the following conditions:

- (a) That this approval to the plan prepared by J. D. Barnes Limited, dated 1989 October 10, showing 50 townhouse units.
- (b) That the owner agree, in writing, to satisfy the financial requirements with the Regional Municipality of Hamilton-Wentworth.

Proposed Draft Plan of Condominium SA 89-33 - north side of Ossington Drive.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 15, respecting a proposed Draft Plan of Condominium Application SA-89-33, for property at the north side of Ossington Drive.

The Committee approved the following:

That approval be given to Proposed Draft Plan of Condominium Application SA-89-33, T. Valeri Construction Limited, owner, to establish a draft plan of condominium located at the north side of Ossington Drive, subject to the following conditions:

- (a) That this approval apply to the plan prepared by J. D. Barnes Limited, dated 1989 October 10, showing 20 townhouse units.
- (b) That the owner agree, in writing, to satisfy the financial requirements with the Regional Municipality of Hamilton-Wentworth.

Proposed Draft Plan of Condominium SA 89-31 - north easterly corner of West 5th Street and Stone Church Road.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 15, respecting Proposed Draft Plan of Condominium Application SA-89-31, for property on the north easterly corner of West 5th Street and Stone Church Road.

The Committee approved the following:

That approval be given to Proposed Draft Plan of Condominium Application SA-89-31 "Stone West Village", West Highland Management Limited, owner, to establish a draft plan of condominium located on the north easterly corner of West 5th Street and Stone Church Road, subject to the following conditions:

- (a) That this approval apply to the plan prepared by J. D. Barnes, O.L.S., dated 1989 October 30 showing 71 townhouse units.
- (b) That the owner convey the 5.18m road widenings on West 5th Street and Stone Church Road and the daylight triangle to the Regional Municipality of Hamilton-Wentworth.
- (c) That the owner agree, in writing, to satisfy all financial requirements of the Regional Municipality of Hamilton-Wentworth.

By-law to remove part-lot control - Rymal Road East and east of Upper Gage.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 11, respecting By-law to remove part-lot control from Lots 1 to 30, 53 to 67, 69 to 138, inclusive, and Block 140 of Registered Plan 62M-639.

The Committee approved the following:

- (a) That the City of Hamilton adopt a by-law to remove part-lot control from Lots 1 to 30, 53 to 67, 69 to 138, inclusive, and Block 140 of Registered Plan 62M-639.

- (b) That the City Solicitor be directed to prepare the appropriate By-law for presentation to City Council.
- (c) That the Regional Municipality of Hamilton-Wentworth be requested to approve the by-law removing part-lot control on the above noted lots and block of Registered Plan 62M-639.
- (d) That the by-law be repealed within 6-months of the date of its registration.

NOTE: The lands are located south of Rymal Road East and east of Upper Gage Avenue in the Broughton East Neighbourhood, City of Hamilton. The lands are part of Lillian Heights, a plan of subdivision which was registered in part as R.P.M-639.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 29, respecting Extension of Draft Approval for "Wisemount Forest Survey" Subdivision.

Extension of Draft
Approval for "Wisemount
Forest Survey"
Subdivision.

The Committee approved the following:

That the Regional Municipality of Hamilton-Wentworth be requested to grant a one year extension to the draft approval for "Wisemount Forest Survey" Subdivision (Regional File No. 25T-83004).

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 17, in which C.A.P.I.C.'s comments on the James Mountain Road Reconstruction Proposal were attached.

C.A.P.I.C.'s
comments on James
Mountain Road
Reconstruction Proposal.

The Committee approved the following:

That the following recommendations of the Central Area Plan Implementation Committee be forwarded to the Regional Engineering Services Committee for consideration:

- (a) That the proposed reconstruction of James Mountain Road be delayed until such time as a study assessing the proposed improvements in the overall context of City-wide transportation needs is carried out.
- (b) That special design attention be paid to the aesthetic and environmental quality of James Mountain Road within its Niagara Escarpment setting.
- (c) That the report of C.A.P.I.C. and attachments be forwarded to the Regional Engineering Services Committee.

The Committee was in receipt of a report from the Secretary of the Local Architectural Conservation Advisory Committee dated 1989 December 11, respecting the MacNab-Charles Heritage Conservation District.

MacNab-Charles Heritage
Conservation District.

The Committee was also in receipt of two documents entitled:

- (a) MacNab-Charles Heritage Conservation District Report, November 1989, Part I; Background Report.
- (b) MacNab-Charles Heritage Conservation District Report, November 1989, Part II; The Plan.

The Committee approved the following:

- (a) That approval be given to designate by By-law the MacNab-Charles Heritage Conservation District (the block bounded by MacNab Street South, Hurst Place, Charles Street and Bold Street with the exception of 131 Charles Street) under Part V of the Ontario Heritage Act.

- (b) That the City Solicitor be authorized and directed to take appropriate action to have this district designated pursuant to the provisions of the Ontario Heritage Act 1983.
- (c) That the MacNab-Charles Heritage Conservation District Plan be approved.

NOTE: A Copy of the MacNab-Charles Heritage Conservation District Plan was circulated to members of the Planning and Development Committee. Additional copies are available from the Committee Secretary upon request.

At this point the meeting adjourned and reconvened in the City Hall Council Chambers to hear Zoning Applications.

Zoning Application
ZA 89-54 - 1527 Upper
Ottawa.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 11, respecting Zoning Application 89-54, for property at 1527 Upper Ottawa Street.

The report recommends denial of the recommendation for the following reasons:

- (a) The "M-12" District uses are limited to wholesale commercial uses and certain light industrial uses (i.e. clothing); whereas, the proposed uses are heavier in nature. In this regard, there are other locations in the Mountain Industrial area where the proposed uses could more appropriately be located (i.e. "M-14" and "M-15" Districts).
- (b) The uses are not considered to be compatible or in character with the existing and future intended uses in the surrounding area. In addition, it would erode the "M-12" District which provides a buffer between residential uses to the west and heavier industrial to the east.
- (c) Approval of the application would encourage similar applications of this type which, if approved, would undermine the intent of the Zoning By-law and the Mountain Industrial Park Plan.

Report of the circularization was given as follows:

54 Notices sent	2 in favour	0 opposed
-----------------	-------------	-----------

Mr. Allan Silver, Solicitor for the applicants was in attendance and spoke to the application.

Following discussion on this matter, it was agreed that this application should be approved and that the By-law should prohibit any outside storage. Accordingly, the Committee approved the following:

That approval be given to Zoning Application 89-54, Dunston Development Inc., owner, requesting a modification to the "M-12" (Prestige Industrial) District regulations, to permit a plumbing contractor with accessory office, general contractor with accessory sales offices, and manufacturing of solariums, solarium windows, and greenhouses with accessory sales office, for the property located at No. 1527 Upper Ottawa Street, as shown on the attached map marked as Appendix "A", on the following basis:

- (a) That the "M-12" (Prestige Industrial) District regulations as contained in Section 17D of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following variances as special requirements:
 - (i) That notwithstanding Section 17D(1)(c), the following additional industrial uses shall be permitted:

<u>Industrial Use</u>	<u>S.I.C. Identification</u>
(1.) Single-Family Housing Development	4011
(2.) Apartment and Other Multiple Housing Development	4012
(3.) Residential Renovation	4013
(4.) Manufacturing and Light Industrial Building	4021
(5.) Commercial Building	4022
(6.) Institutional Building	4023
(7.) Septic System Installation	4213
(8.) Excavating & Grading	4214
(9.) Form Work	4222
(10.) Concrete Pouring & Finishing	4224
(11.) Precast Concrete Installations	4225
(12.) Rough & Framing Carpentry	4226
(13.) Masonry Work	4231
(14.) Siding Work	4232
(15.) Insulation Work	4234
(16.) Roof Shingling	4235
(17.) Other Exterior Close-In Work	4239
(18.) Plumbing	4241
(19.) Dry Heating & Gas Piping Work	4242
(20.) Wet Heating & Air Conditioning Work	4243
(21.) Sheet Metal & Other Duct Work	4244
(22.) Electrical Work	4261
(23.) Plastering & Stucco Work	4271
(24.) Drywall Work	4272
(25.) Acoustical Work	4273
(26.) Finish Carpentry	4274
(27.) Painting & Decorating Work	4275
(28.) Terrazzo & Tile Work	4276
(29.) Hardwood Flooring Installation	4277
(30.) Resilient Flooring & Carpet Work	4278
(31.) Other Interior & Finishing Work	4279

(ii) Notwithstanding Section 17D(1)(c), the following additional industrial use shall be permitted in addition to the uses listed in clause (i) above:

(1.) Manufacturing of solariums, solarium windows and greenhouses.

(iii) That notwithstanding Section 17D(2)(h) outdoor storage shall be prohibited.

- (b) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1159, and that the subject lands on Zoning District Map E-59D be notated S-1159;
- (c) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-59D for presentation to City Council;
- (d) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area;
- (e) That the Mountain Industrial Neighbourhood Plan be amended by redesignating the subject lands from "Restricted Commercial-Industrial" to "Restricted Industrial".

NOTE: The purpose of the by-law is to provide for a modification to the "M-12" (Prestige Industrial) District regulations, for the property located at 1527 Upper Ottawa Street.

The effect of the by-law is to permit additional industrial uses as noted above.

In addition, the by-law prohibits outside storage.

ZA 89-112 - 244 Stone
Church Road West.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 9, respecting Zoning Application 89-112, for property located at 244 Stone Church Road West.

The Committee approved the following:

That approval be given to Zoning Application 89-112, Starward Homes Limited, prospective owner, requesting a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District, to permit the development of the subject lands for single-family dwellings by adding these lands to the lands to the west, as shown on the attached map marked as Appendix "B", on the following basis:

- (a) That the subject lands be rezoned from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District.
- (b) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map W-17C for presentation to City Council.
- (c) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

NOTE: The purpose of the by-law is to provide for a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District, for the property located at 244 Stone Church Road West.

The effect of the by-law is to permit the development of the subject lands for single-family dwellings by adding these lands to the lands to the west (Orchard Park Plan of Subdivision).

ZA 89-66 - 1575 Upper
Ottawa Street.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 10, respecting Zoning Application 89-66, for property at 1575 Upper Ottawa Street.

The Committee was in receipt of a Letter of Submission from Phylis Fitzgerald, 61 Everest Street respecting this application.

Mr. Fitzgerald, 61 Everest Street was in attendance and spoke on behalf of homeowners in the area. He advised that they are opposed to this application and feel that additional uses being recommended for this property are a disadvantage for the present homeowners.

A representative for the applicant was in attendance and spoke on the proposed uses for the property. He added that he feels that automotive uses would not affect the homeowners.

Report of the circularization was given as follows:

73 Notices sent 4 in favour 8 opposed

Following considerable discussion on this matter by the Committee, it was agreed that this application should be approved, but that a restriction be placed on outside storage.

Accordingly, the Committee approved the following:

That approval be given to Zoning Application 89-66, 804907 Ontario Limited, (Ming Sun Holdings Inc.) owner, requesting a modification to the established "M-12" (Prestige Industrial) District, for property located at 1575 Upper Ottawa Street, as shown on the attached map marked as Appendix "C", on the following basis:

- (a) That the "M-12" (Prestige Industrial) District regulations as contained in Section 17D of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following variances as special requirements:
 - (i) That notwithstanding Section 17D(1)(b) of By-law No. 6593 the following Commercial uses shall be permitted:

<u>Commercial Use</u>	<u>S.I.C. Identification</u>
(1.) Tire, Battery, Parts and Accessories Store	6342
(2.) Garages (General Repairs)	6351
(3.) Muffler Replacement Shops	6353
(4.) Motor Vehicle Glass Replacement Shops	6354
(5.) Motor Vehicle Transmission Repair and Replacement Shops	6355
(6.) Other Motor Vehicle Repair Shops	6359
(7.) Other Motor Vehicle Services	6399
n.e.c.	
 - (ii) That notwithstanding Section 17D(2)(h) of By-law No. 6593 outside storage shall be prohibited.
- (b) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1157, and that the subject lands on Zoning District Map E-59D be notated S-1157;
- (c) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-59D for presentation to City Council;
- (d) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area; and
- (e) That the Mountain Industrial Area Neighbourhood Plan be amended by redesignating the subject lands from "Restricted Industrial/Commercial" to "Restricted Commercial".

NOTE: The purpose of the By-law is to provide for a modification to the "M-12" (Prestige Industrial) District for property located at 1575 Upper Ottawa Street.

The effect of the By-law is to permit the following additional automotive related commercial uses:

<u>Commercial Use</u>	<u>S.I.C. Identification</u>
(a) Tire, Battery, Parts and Accessories Store	6342
(b) Garages (General Repairs)	6351
(c) Muffler Replacement Shops	6353
(d) Motor Vehicle Glass Replacement Shops	6354
(e) Motor Vehicle Transmission Repair and Replacement Shops	6355
(f) Other Motor Vehicle Repair Shops	6359
(g) Other Motor Vehicle Services	6399
n.e.c.	

In addition, the By-law prohibits outside storage.

ZA 89-84 - 1314 Upper
Wentworth Street.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 15, respecting Zoning Application 89-84, for property at 1314 Upper Wentworth Street.

Report of the circularization was given as follows:

112 Notices sent . . . 7 in favour . . . 5 opposed

Mr. Papastamof, owner, and applicant for this application spoke on the reasons why his application should be approved. He added that this development will be an improvement to the area and that proper fencing will be installed.

Discussion ensued on this matter and it was agreed that this application should be approved, subject to site plan control.

Accordingly, the Committee approved the following:

- (a) That approval be given to an amended Zoning Application 89-84, 518374 Ontario Ltd., (Angelo Papastamos) owner, for a modification to the established "AA" (Agricultural) District to permit conversion of the existing building from a legal non-conforming auto-body business to a retail variety store on the first floor and business and professional persons offices on the second floor, for property located at 1314 Upper Wentworth Street, as shown on the attached map marked as Appendix "D", on the following basis:

- (i) That the "AA" (Agricultural) District regulations as contained in Section 7A of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following variances as special requirements:

- (1.) That notwithstanding Section 7A(1), the following uses shall be permitted:

Commercial Uses only within the Existing Building:

- (a) A retail variety store;
- (b) Business and professional person's office.

Accessory Use:

- (a) For each establishment, a window sign or an outdoor advertising or other sign of the kind known as a wall sign, of an area of not more than 2.5 square metres (26.91 square feet), not overhanging a highway and not extending more than 5.0 metres (16.40 feet) above grade or more than 1.0 metres (3.28 feet) above the top of the first storey of the building to which the same is attached, whichever is the higher, provided that not more than one such sign shall be permitted facing each street upon which each establishment abuts; and provided further that no such sign shall be illuminated otherwise than by non-flashing indirect lighting.
- (ii) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1158, and that the subject lands on Zoning District Map E-18C be notated S-1158;
- (iii) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-18C for presentation to City Council;
- (iv) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

- (v) That By-law No. 79-275 as amended by By-law No. 87-223 establishing Site Plan control be amended by adding the lands shown on the attached map marked as Appendix "D" to Schedule "A".
- (b) That the amending By-law not be forwarded for passage by City Council until such time as a site plan has been approved by the Planning and Development Committee.

NOTE: The purpose of this By-law is to provide for a modification to the established "AA" (Agricultural) District regulations for property located at 1314 Upper Wentworth Street.

The effect of the By-law is to permit conversion of the existing building from that of a legal non-conforming auto-body business to a retail variety store on the ground floor and, business and professional offices on a second floor. The height of the building is such that it would lend itself to the introduction of a second floor.

In addition, the By-law provides for accessory signage.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 17, respecting an Amended Zoning Application 89-102, for property on the east side of Upper Sherman Avenue, north of Limeridge Road East.

Amended ZA 89-102 -
east side of Upper Sherman
Avenue, north of
Limeridge Road East.

The Committee approved the following:

That approval be given to amended Zoning Application 89-102, Carmen Chiaravalle and Anthony Lemmelo, owners, for a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District modified for lands described as Block "1" and a modification to the "C" (Urban Protected Residential, etc.) District regulations for land described as Block "2", to create four single-family dwelling building lots, for property located on the east side of Upper Sherman Avenue north of Limeridge Road East, as shown on the attached map marked as Appendix "E", on the following basis:

- (a) That Block "1" be rezoned from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District;
- (b) That the "C" (Urban Protected Residential, etc.) District regulations contained in Section 9 of Zoning By-law No. 6593, applicable to the lands shown as Blocks "1" and "2", be modified to include the following as special provisions:
 - (i) That notwithstanding Section 9(3) of Zoning By-law No. 6593, no building shall be permitted within 5 metres of the southerly lot line adjoining Limeridge Road East;
 - (ii) That notwithstanding Section 9(4) of Zoning By-law No. 6593, the most northerly three lots shall have a minimum lot area of 330m² each;
 - (iii) Access to Lot 4 (Appendix "F") shall be restricted to Limeridge Road East only and shall be approximately 3m from the easterly lot line and shall be at least 3m from the daylight triangle; and,
 - (iv) Access to Lot 3 (Appendix "F") shall be on the north limit of the lot to Upper Sherman Avenue.
- (c) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1160, and that the subject lands on Zoning District Maps E-38A and E-38B be notated S-1160;

- (d) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Maps E-38A and E-38B for presentation to City Council;
- (e) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area; and,
- (f) That the Lawfield Neighbourhood Plan be amended by redesignating the subject lands from "Low Density Apartments" to "Single and Double Residential".

NOTE: The purpose of the proposed By-law is to provide for a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District modified for lands described as Block "1", and a modification to the "C" (Urban Protected Residential, etc.) District regulations for lands described as Block "2".

The effect of the proposed change in zoning is to divide the subject land into four (4) building lots for single-family detached dwellings. In addition, the By-law provides for the following as special requirements:

- (a) The three northern lots shall have a minimum lot area of 330 square metres each, whereas 360m² is required;
- (b) No building shall be permitted within 5 metres of the southern lot line (i.e. Limeridge Road East);
- (c) Access to the southern lot shall be restricted to Limeridge Road East and shall be at least 3m from the easterly lot line and at least 3m from the daylight triangle at the corner of Upper Sherman Avenue and Limeridge Road East; and,
- (d) Access to Lot 3 shall be at the north limit of the lot to Upper Sherman Avenue.

ZA 89-119 - 65
Walnut Street South.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 15, respecting Zoning Application 89-119, for property at 65 Walnut Street South.

The Committee approved the following:

That approval be given to Zoning Application 89-119, Lynn Mitges and Anna McCusker, owners, requesting a further modification to the "E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations to permit a flower shop and an office, for property located at 65 Walnut Street South, as shown on the attached map marked as Appendix "G", on the following basis:

- (a) That the "E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations as contained in Section 11A of Zoning By-law No. 6593, as amended by By-law No. 85-213, applicable to the subject lands, be modified to include the following variances as special provisions:
 - (i) That notwithstanding Section 11A(1)(iii) of Zoning By-law No. 6593, a flower shop shall be permitted;
 - (ii) That notwithstanding Section 11A(1)(iii)(g) of Zoning By-law No. 6593, the storage of materials shall be permitted and shall occupy no more than one-half the floor area;
- (b) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-927a, and that the subject lands on Zoning District Map E-5 be notated S-927a;

- (c) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-5 for presentation to City Council; and,
- (d) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

NOTE: The purpose of the proposed By-law is to provide for a modification to the "E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District for property located at 65 Walnut Street South.

The effect of this By-law is to permit a flower shop and office within the existing building. In addition, the by-law provides, as a special provision, that the storage of materials shall occupy not more than one-half of the floor area of the building.

The Committee was advised of the upcoming National Planning Conference of the American Planning Association to take place in Denver, Colorado on 1990 April 21-25.

National Planning
Conference - American
Planning Association.

The Committee approved the following:

That the Chairman, or his designate, be authorized to attend the 1990 National Planning Conference of the American Planning Association to be held in Denver, Colorado on 1990 April 21-25.

There being no further business, the meeting then adjourned.

Adjournment.

Taken as read and approved,

ALDERMAN J. SMITH, CHAIRMAN
PLANNING AND DEVELOPMENT COMMITTEE

Susan K. Reeder
Secretary
1990 January 24

FOR ACTION

2.

REPORT TO: The Planning and Development Committee

FROM: L.C. King, Building Commissioner

DATE: February 14, 1990

COMM. FILE:

DEPT. FILE:

SUBJECT:

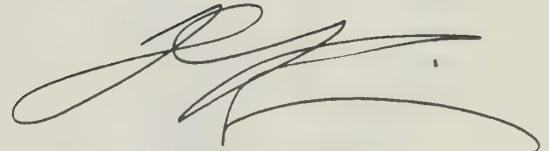
Demolition

RECOMMENDATION:

That the Building Commissioner be authorized to issue demolition permits for the following properties: -

- a. 1500 Upper Ottawa
- b. 1514 Upper Ottawa
- c. 1522 Upper Ottawa
- d. 1489 Upper Gage
- e. 1491-1495 Upper Gage

FINANCIAL IMPLICATIONS: N/A



BACKGROUND:

For background information see attached sheets.

DEMOLITION CONTROL

DATE: February 14, 1990

[illegible]

FOR ACTION

3.

REPORT TO: Mrs. S. K. Reeder
Secretary, Planning and Development Committee

FROM: Mr. E. W. Kowalski
Director of Community Development

DATE: 1990 January 24
COMM FILE:
DEPT FILE: 800-0610

SUBJECT: Commercial Improvement Programme and Commercial Facade Loan
Programme Selection Criterias

RECOMMENDATION:

- a) That, the Commercial Improvement Programme Selection Criteria (attached as Schedule 'A') be amended to include a stipulation requiring that a B.I.A., to be eligible under the Programme, must have an annual operating budget with levies averaging not less than one hundred dollars (\$100.) per member per year; and,
- b) That, the Commercial Facade Loan Programme eligibility requirements be amended to stipulate that the member B.I.A. for each application must have an annual budget with average levies of one hundred dollars (\$100.) each per year per member.

E. W. Kowalski

FINANCIAL IMPLICATIONS: (IF NONE, STATE N/A)

N/A

BACKGROUND:

On 1990 February 08 the Downtown Action Plan Co-ordinating Committee (DAPCOM) approved a resolution recommending the above. The Committee Members are concerned that the business group may form into a legally designated business improvement area in order that they become eligible for these incentive programmes. Although these programmes are provided as incentives to form into a B.I.A., they are not expected to be the sole reason that a group would organize. All of the existing B.I.A.'s have annual operating budgets and work very hard to improve their area, not only physically but also be dealing with key issues through City Hall as well as marketing their area for increased sales. This trend should continue. In order to ensure that they are not forming solely for the reason of receiving Municipal funds, we are recommending the above changes.

cc: Alderman Wm. McCulloch, Chairman
DAPCOM

COMMUNITY IMPROVEMENT PROGRAMME

SELECTION CRITERIA

IN THE CITY OF HAMILTON

Department of Community Development
1986 September

The Department of Community Development, is establishing the selection guidelines for the Community Improvement Programme, addressed items that the B.I.A.'s study should include as well as the criteria to be used in evaluating financial requests from the B.I.A.'s. The following provides an outline of the selection process.

CRITERIA FOR AREA

1. Age of Hard Services

Priority will be given on the age and condition of hard surfaces (i.e. oldest most needy), including the sharing of costs with the Region based on their Reconstruction-Resurfacing Schedule.

2. Market Catchment Area

The type of commercial needs it caters to, i.e., neighbourhood shopping, Regional mall, tourist area and/or ethnic flavour, will be considered.

3. Stability of B.I.A.

The B.I.A. must be in existence and operating for at least one year.

4. Central Area

As stated in the Official Plan, "The Central Policy Area is recognized as the highest level in the Commercial hierarchy and is promoted as the principal retail centre for both the City and the Region, offering the widest range of goods and services". Thus consideration will be given based on the aforementioned, to the B.I.A.'s in the Central Policy Area.

5. Municipal Expenditure

The last major municipal expenditure in the area will be considered in terms of when and how many municipal dollars spent.

6. B.I.A. Study

The B.I.A. study submitted will be assessed based on: the scope and nature of the submission, the breakdown of hard and soft services, long term objectives and goals, a clear majority of 60/40 B.I.A. members in favour of the improvements proposed - this ascertained by means of a general membership meeting or an individual poll to avoid potential conflicts and facilitate implementation.

7. Uniqueness of Proposal

New, imaginative ideas conducive to Hamilton's future growth will be favourably considered.

8. Commercial Facade Loan Programme

The viability of implementation of the Commercial Facade Loan Programme will be considered based upon the age of buildings, and any architectural or historical significance.

CRITERIA FOR MUNICIPAL EXPENDITURE

1. Staged Project

Any acceptable proposal exceeding available funds will be considered as a staged project over a number of years.

2. Specific Staging

Any proposal over \$500,000. must also provide specific staging and priorities for implementation i.e. if approval not given for Stage 2 the project completed (Stage 1) stands on its own merit. Each year proposals are reviewed and allocations made. Thus, the Planning and Development Committee and subsequently City Council can terminate or postpone stages of the programme prior to next years' allocation.

3. Maintenance Costs

The ongoing maintenance costs to the City of Hamilton and the Region will be considered.

STUDY

1. Market Catchment Area

The type of commercial needs the B.I.A. caters to, i.e., neighbourhood shopping, regional mall, tourist area or ethnic flavour must be outlined in the B.I.A. professional study submission.

2. B.I.A. Study

The study must include breakdown of hard and soft services, preliminary cost estimates, long term goals and objectives, reference to a clear majority (60/40) in favour of proposed changes, i.e., general meeting or merchant poll to confirm support.

3. Condition of Building

The age of buildings relative to their historical or architectural significance must be addressed to ascertain the viability of the implementation of loan/grant programmes (i.e., Heritage, Commercial Facade, Low-Rise).

SUMMARY

The Department of Community Development would prepare recommendations to the Planning and Development Committee based on the preceding guidelines.

Assistance will also be given to the B.I.A.'s with respect to the terms of reference for the professional study undertaken financially by the B.I.A. The B.I.A.'s must understand and acknowledge in writing that the submission of the study does not necessitate the allocation of funds by the municipality.

The Commercial Improvement Programme will be limited to B.I.A.'s in existence and operation for one year for the following reasons:

- a) there is a definite need for a stable political system and structure to effectively ensure majority approval.
- b) due to the present limitations of the annual capital budget there will not be enough funding available to make this programme available to new B.I.A.'s during their first year of operation.
- c) the B.I.A. Legislation provides an ideal mechanism for the Business Community to collect the necessary funding for the required study.

F O R A C T I O N

4.

REPORT TO: Mrs. S. Reeder, Secretary
Planning & Development Committee

FROM: Mr. E. W. Kowalski, Director
Community Development Department

DATE: 1990 February 6
DEPT FILE: FACADE 35

FEB 8 1990

SUBJECT: Commercial Facade Loan Programme -
283-285-287 King Street East, Hamilton

RECOMMENDATION:

That a repayable loan, in the amount of forty-five thousand dollars (\$45,000.) be approved under the Commercial Facade Loan Programme for 283-285-287 King Street East, Agommen Ltd., c/o A. Ammendolia, M. Nusca, G. Piccini and F. Zanette. The interest rate will be 6 1/2 percent, amortized over 10 years.

E. Kowalski

FINANCIAL IMPLICATIONS (IF NONE, N/A)

N/A

BACKGROUND

The owner of 283-285-287 King Street East has applied for assistance under the City of Hamilton's Commercial Facade Loan Programme. As per the terms of the Programme, the Building Department has inspected the property, under the Property Standards By-law 74-74, and the necessary repairs have been included in the cost of repairs.

Approval from the International Village Business Improvement Area was not required as all work to be completed under the Facade Programme consists of Property Standards work only.

The Department of Community Development therefore recommends the approval of a Commercial Facade Loan to Agommen Ltd., for improvements to 283-285-287 King Street East in the amount of \$45,000. The loan will be amortized over a 10 year period at 6 1/2 percent interest. The monthly payments will be \$511.04, and will be secured by a Promissory Note and a lien registered on title.

c.c. R. Camani, Treasury Department



THE CORPORATION OF THE CITY OF YORK

2700 Eglinton Avenue West, City of York, Ontario M6M 1V1 (416) 394-2507

THE OFFICE OF THE CLERK

RECEIVED

In Reply Refer to
Telephone

Jean McClaskey
394- 2523

December 20, 1989

CITY CLERKS
Mr. E. A. Simpson, Clerk
City Hall
City of Hamilton
71 Main Street West
Hamilton, Ontario
L8N 3T4

Dear Sir:

Re: Rental Housing Protection Act, 1989
1065 Eglinton Avenue West
Issue of whether an injunction to cause the
landlord to refrain from renovations in
occupied units and pre-evaluation of
renovations

I enclose, for your information and attention, a copy of 'amended' Clause No. 3 of Report No. 19 of the Legislation and Planning Committee, concerning the above subject matter, which was adopted by the Council of the City of York at its meeting held on December 11 and 13, 1989, and which is self-explanatory.

I would appreciate it if you would present this matter to your Council for its endorsement and advise me of the outcome of its deliberations.

Yours very truly,

C. RODRIGO
Clerk

CR/jmc
Encl.

'AMENDED'

CLAUSE NO. 3 OF REPORT NO. 19 OF THE LEGISLATION AND PLANNING COMMITTEE WHICH WAS ADOPTED BY THE COUNCIL OF THE CITY OF YORK AT ITS MEETING HELD ON December 11 and 13, 1989

3. RENTAL HOUSING PROTECTION ACT, 1989
1065 EGLINTON AVENUE WEST
ISSUE OF WHETHER AN INJUNCTION TO CAUSE THE LANDLORD TO
REFRAIN FROM RENOVATIONS IN OCCUPIED UNITS
AND PRE-EVALUATION OF RENOVATION PROJECTS

The Legislation and Planning Committee considered the following communication (November 23, 1989) from the Honourable John Sweeney, Minister of Housing, 1989) viz:

'Thank you for your letter of October 13, 1989, forwarding to me the October 2, 1989 resolution of Council concerning 1065 Eglinton Avenue West, in the City of York.

Staff of the Ministry of Housing are reviewing the issue of whether an injunction to cause the landlord to refrain from further renovations in occupied units should be applied for in reference to the Rental Housing Protection Act, 1989.

With respect to the pre-evaluation of renovation projects, municipalities may evaluate proposals prior to issuing building permits in order to assess the possibility that vacant possession would be required. There will undoubtedly be cases where the way the work is co-ordinated and carried out will determine whether a particular project will require vacant possession. Municipal staff should be aware of this possibility, and may wish to warn applicants prior to issuance of permits.

I am grateful for Council's assistance and encouragement in regards to this situation.'

Moved by Alderman Mandarano:

WHEREAS under the Rental Housing Protection Act, 1989, the Commissioner of Buildings may refuse to issue a building permit for renovations only if vacant possession is required for the renovations;

AND WHEREAS experience has shown that substantial renovations may be undertaken to rental property without requiring vacant possession of rental units of that property;

AND WHEREAS the property owners may, under the Residential Rent Regulation Act, 1986, then apply for and receive substantial increases applicable to the said units based on the cost of the renovations;

THEREFORE BE IT RESOLVED THAT THE LEGISLATION AND PLANNING COMMITTEE RECOMMENDS to Council:

- a) THAT the Minister of Housing be requested to institute a method, either under the Rental Housing Protection Act, 1989, or other legislation, whereby renovations would be prohibited or alternately rent increases based on such

'AMENDED'

CLAUSE NO. 3 OF REPORT NO. 19 OF THE
LEGISLATION AND PLANNING COMMITTEE
RENTAL HOUSING PROTECTION ACT, continued

2

renovations would be prohibited unless the need for such renovations were first established in a proceeding at which tenants would have an opportunity to make representation;

- b) AND FURTHER that the letter (November 23, 1989) from the Minister of Housing be acknowledged;

AND FURTHER, that the City Clerk be requested to forward this recommendation to the Association of Municipalities of Ontario and to all Ontario Municipalities with populations of 50,000 and over for endorsement;

which was carried unanimously.

FOR ACTION

5a.

REPORT TO: Mr. J. Thompson, Secretary,
Finance and Administration Committee

FROM: Mr. E. W. Kowalski
Director of Community Development

DATE: 1990 January 17
COMM FILE:
DEPT FILE:101-0002.1

SUBJECT:

Rental Housing Protection Act

RECOMMENDATION:

That the recommendation from the City of York relating to the Rental Housing Protection Act not be endorsed.

E. Kowalski

FINANCIAL IMPLICATIONS: (IF NONE, STATE N/A)

N/A

BACKGROUND:

The Department of Community Development has been forwarded a request asking for our comments on the Resolution proposed by the City of York. This Resolution deals with the effect of renovations on tenants and a recommendation for application under the Rental Protection Housing Act requiring tenant approval.

The first comment we wish to make is to inform the Finance and Administration Committee that this question has been directed by the Minister of Housing to the Province's Rental Standards Board. Mr. J. Robinson of this Department has been appointed by the Association of Municipalities of Ontario and approved by an Order-In Council to sit on this Board to represent Municipal interests. This matter has been addressed by the Board and a report including recommendations has been sent to the Minister. It should be noted that this recommendation by the City of York would require amendments to the Housing Protection Act while the Standard Board's recommendations could be implemented by amendments to the Regulations - a much shorter and easier process.

The recommendation by the Standards Board address the City of Yorks concerns but at the same time does not require blanket approval of tenants regardless of the work to be undertaken. The Rental Standards Board in essence has said that work which is structural in nature and does not require entry to the individual units should not require tenant input ie heating, roofing, and plumbing. Other improvements ie unit carpeting, appliances, painting, cupboards and upgrading

of fixtures should be approved by the tenants. This would also apply to new lobbies, swimming pools etc. This in effect would exempt Property Standards requirements from needing tenant approval.

The landlords would be required to obtain 51% of tenant approval for these discretionary items or failing this they would be penalized by longer amortization periods and penalties in administration cost allowances. The Rent Review Board could also allow work to be done in those units where the tenants have agreed while deferring work in the others. Any rent increases in these units would not be allowed until the improvements were completed.

The Department would like to recommend that the City of Hamilton not endorse the City of York's recommendation because it would include all work and could potentially prevent the owner from doing necessary improvements to protect the integrity of the building. The principle can be supported and is being addressed by the Province. It is expected to be announced within the next few weeks what action the Minister will be taking to address this important social issue. It should also be noted that in Hamilton this problem has not as yet been a factor under any of the rental rehabilitation programmes administered by the Department of Community Development.

FOR ACTION

6a.

REPORT TO: Mrs. S. K. Reeder
Secretary, Planning and Development Committee

FROM: Mr. D. W. Vyce
Director of Property

DATE: 1990 February 6
COMM FILE:
DEPT FILE: 20.1.285
(2738)

FEB 7 1990

SUBJECT: Release of Building Covenants - Aiden Tuite, William Pickard,
Luigi Centurami and 441138 Ontario Limited - Lot 38 -
Plan M-227 - 175 Nebo Road, Hamilton, Ontario

RECOMMENDATION:

That the City Solicitor be authorized to prepare a Quit Claim Deed from the City of Hamilton to the present owners, Aiden Tuite, William Pickard, Luigi Centurami and 441138 Ontario Limited, of Lot 38, Plan M-227, 175 Nebo Road to release the property from the construction covenants to the City as contained in Deed Instrument # 226207 L.T. Registered June 15, 1988.


D. W. Vyce

FINANCIAL IMPLICATIONS: (IF NONE, STATE N/A)

N/A

BACKGROUND:

In adopting Item 2 of the 13th Report of the Planning and Development Committee, City Council on May 13, 1988 authorized the sale of Lot 38, Plan M-227 to Aiden Tuite, William Pickard and Luigi Centurami and 441138 Ontario Limited. The transaction was completed on June 15, 1988 and on January 10, 1990, the proposed building was completed.

This department supports the request of the owners that the City of Hamilton release the construction covenants contained in deed #226207 L.T. in order to clear the title.

All the covenants as noted above have been fulfilled.

c.c. - Mr. P.R.A. Hooker, Acting City Solicitor

FOR ACTION

6b.

REPORT TO: Mrs. S. K. Reeder
Secretary, Planning and Development Committee

FROM: Mr. D. W. Vyce
Director of Property

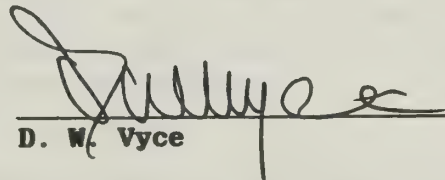
DATE: 1990 February 6
COMM FILE:
DEPT FILE: 40.15.54
(4504)

FEB 7 1990

SUBJECT: Release of Building Covenants - R.G. Duffie Contracting Ltd.
15 Goderich Road, Parts 3 & 4, Plan 62R-7820 -
(Kenora Industrial Park)

RECOMMENDATION:

That the City Solicitor be authorized to prepare a Quit Claim Deed for the City of Hamilton to the present owner, R.G. Duffie Contracting Ltd. of 15 Goderich Road, Hamilton, Ontario to release the property from the construction covenants to the City as contained in Deed Instrument #382500 C.D. Registered on October 8, 1986.


D. W. Vyce

FINANCIAL IMPLICATIONS: (IF NONE, STATE N/A) ~

N/A

BACKGROUND:

In adopting Item 11 of the 13th Report of the Planning and Development Committee, City Council on June 24, 1986 authorized the sale of Parts 3 and 4, Plan 62R-7820 to R.G. Duffie Contracting Ltd. The transaction was completed on October 8, 1986. On November 16, 1988, the proposed building was completed.

This department supports the request of the owner that the City of Hamilton release the construction covenants in the deed number 382500 C.D. in order to clear the title.

All the covenants as noted above have been fulfilled.

c.c. - Mr. P.R.A. Hooker, Acting City Solicitor

FOR ACTION

7a.

REPORT TO: Mrs. S. K. Reeder
Secretary, Planning and Development Committee

FROM: Mr. D. W. Vyce
Director of Property

DATE: 1990 February 6
COMM FILE:
DEPT FILE: 100.68.30
(4504)

FEB 6 1990

SUBJECT: Authorization to include the Industrial Condominium Clause
City Sale - Anchor Road - Parts 3 and 4, Plan 62R-5200

RECOMMENDATION:

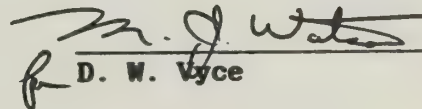
(a) That Item 12 of the 16th Report of the Planning and Development Committee, as approved by City Council on July 26, 1988 be further amended as follows:

(i) That the Offer to Purchase agreement dated June 17, 1988 be amended by adding the following clause:

'Notwithstanding paragraphs 6.3 (1) (2) (3) hereof, should the Transferee decide to construct an industrial condominium, in accordance with municipal, regional, and provincial requirements, the Transferee shall be entitled to enter into Agreements of Purchase and Sale in respect of the units to be contained within such condominium and shall further be entitled to transfer such condominium units to such Purchasers without such sales or transfers being deemed an act or acts of default hereunder.'

(ii) That the Purchasers' solicitor must prepare all necessary agreements and deeds subject to the approval of the City Solicitor.

(iii) That any costs incurred by the City in this regard will be borne by the Purchaser.


D. W. Vyce

FINANCIAL IMPLICATIONS: - N/A

BACKGROUND:

The present owners of the property have inquired into the possibility of their agreement being amended to allow the possible development of an industrial condominium.

This request has been granted by City Council on other occasions.

c.c. - Mr. P.R.A. Hooker, Acting City Solicitor
Attention: Mr. L. Farr
- Mr. R. Douglas, Supervising Surveyors

FOR ACTION

7b.

REPORT TO: Mrs. S. K. Reeder
Secretary, Planning and Development Committee

FROM: Mr. D. W. Vyce
Director of Property

DATE: 1990 February 6
COMM FILE:
DEPT FILE: 20.1.295
(4504)

FEB 6 1990

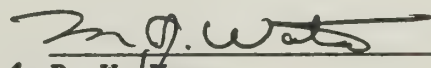
SUBJECT: Authorization to include the Industrial Condominium Clause -
City Sale - Parts 2 & 3, Plan 62R-10547 - Upper Ottawa Street

RECOMMENDATION:

(a) That Item 8 of the 17th Report of the Planning and Development Committee as approved by City Council on July 25, 1989 be further amended as follows:-

(i) The Offer to Purchase agreement dated June 20th, 1989 be amended by adding the following clause:

'Notwithstanding paragraphs 6.3 (1) (2) (3) hereof, should the Transferee decide to construct an industrial condominium, in accordance with municipal, regional, and provincial requirements, the Transferee shall be entitled to enter into Agreements of Purchase and Sale in respect of the units to be contained within such condominium and shall further be entitled to transfer such condominium units to such Purchasers without such sales or transfers being deemed an act or acts of default hereunder.'


for D. W. Vyce

FINANCIAL IMPLICATIONS: - N/A

BACKGROUND:

The present owners of the property have inquired into the possibility of their agreement being amended to allow the possible development of an industrial condominium.

This request has been granted by City Council on other occasions.

c.c. - Mr. P.R.A. Hooker, Acting City Solicitor - Attn: L. Farr
- Mr. R. Douglas, Supervising Surveyors

FOR ACTION

9.

REPORT TO: Mrs. S. K. Reeder
Secretary, Planning and Development Committee

FROM: Mr. E. C. Matthews
Treasurer

DATE: 1990 February 1
COMM FILE:
DEPT FILE:

SUBJECT: FINAL RELEASE OF HOLDBACK

FEB 2 1990

RECOMMENDATION:

That total holdback in the amount of \$1,814.52 be released to Delta Ready Mix Limited for the completion of P.O. No. 23340 for the Downtown Hamilton Action Plan IIIB, pending receipt by the Treasury of the Standard Release Forms from the contractor and City Solicitor's Department.

FINANCIAL IMPLICATIONS: (IF NONE, STATE N/A)

Contractor is entitled to release of holdback on the 46th day after total completion.

BACKGROUND:

The contract was approved by City Council June 24, 1985 for \$932,750.00. The project was completed January 12, 1990 for a final total cost of \$905,267.93. The 45 day lien period expires February 20, 1990 and I am recommending release of all holdback monies at this time pending receipt of the necessary release forms by the Treasury.

FOR ACTION

10a.

REPORT TO: SUSAN K. REEDER, SECRETARY OF THE
PLANNING AND DEVELOPMENT COMMITTEE

FROM: J. D. THOMS
COMMISSIONER
PLANNING AND DEVELOPMENT

DATE: 1990 FEB 6
COMM FILE:
DEPT FILES: SA-89-23
25CDM-89022

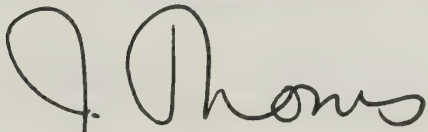
SUBJECT

Proposed Draft Plan of Condominium

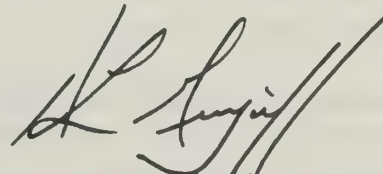
RECOMMENDATION

That approval be given to Application SA-89-23, "Robinson Place" John Bruce Robinson Construction Ltd., owner, to establish a draft plan of condominium located at the south-west corner of Bigwin Road and Pritchard Road, subject to the following conditions:

- 1) That this approval apply for the Plan prepared by A. J. Clarke and Associates Ltd., dated September 27, 1989.
- 2) That the owner satisfy all financial requirements of the Regional Municipality of Hamilton-Wentworth.



J. D. Thoms, M.C.I.P.
Commissioner
Planning and Development



A. L. Georgieff, M.I.C.P.
Director - Local Planning

JDT/ALG:sgd

FINANCIAL IMPLICATIONS:

N/A

BACKGROUND:

Owner

John Bruce Robinson Construction Ltd., Hamilton, Ontario

Surveyor

A. J. Clarke and Associates, Hamilton, Ontario

Location

The lands comprising 0.602 ha, are located at the south-west corner of Bigwin Road and Pritchard Road, in North Hannon Neighbourhood, City Of Hamilton.

Proposal

The owner is in the process of constructing two buildings, one with 6 industrial units and the other with 7 industrial units as a condominium project.

Existing Development Controls

Hamilton Wentworth Official Plan - the lands are identified as "Industrial Business Parks" within the "Urban Policy Areas". The Proposal complies.

City of Hamilton Official Plan - the lands are designated "Industrial". The Proposal complies.

Neighbourhood Plan - the lands are designated "Restricted Industrial". The Proposal complies.

Zoning - the lands are zoned "M-14" Prestige Industrial Uses. The Proposal complies.

Niagara Escarpment - the lands are not within the Development Control Area, therefore regulations do not apply.

COMMENTS FROM CIRCULATION:

The following agencies have advised that they have no comment or objection toward the Proposal:

City Building Department
City Traffic Department (subject to Driveway Approach Approval)
Regional Economic Development Department
Ministry of Industry and Tourism
Ontario Hydro, Union Gas and Bell Canada

The Hamilton-Wentworth Department of Engineering has submitted the following comments and recommendations:

For your information:

- 1) Public storm and sanitary sewers are available on Bigwin Road and Pritchard Road adjacent to subject property.
- 2) Public watermains are available on Bigwin Road and Pritchard Road adjacent to subject property.
- 3) No additional road widenings required for this property.

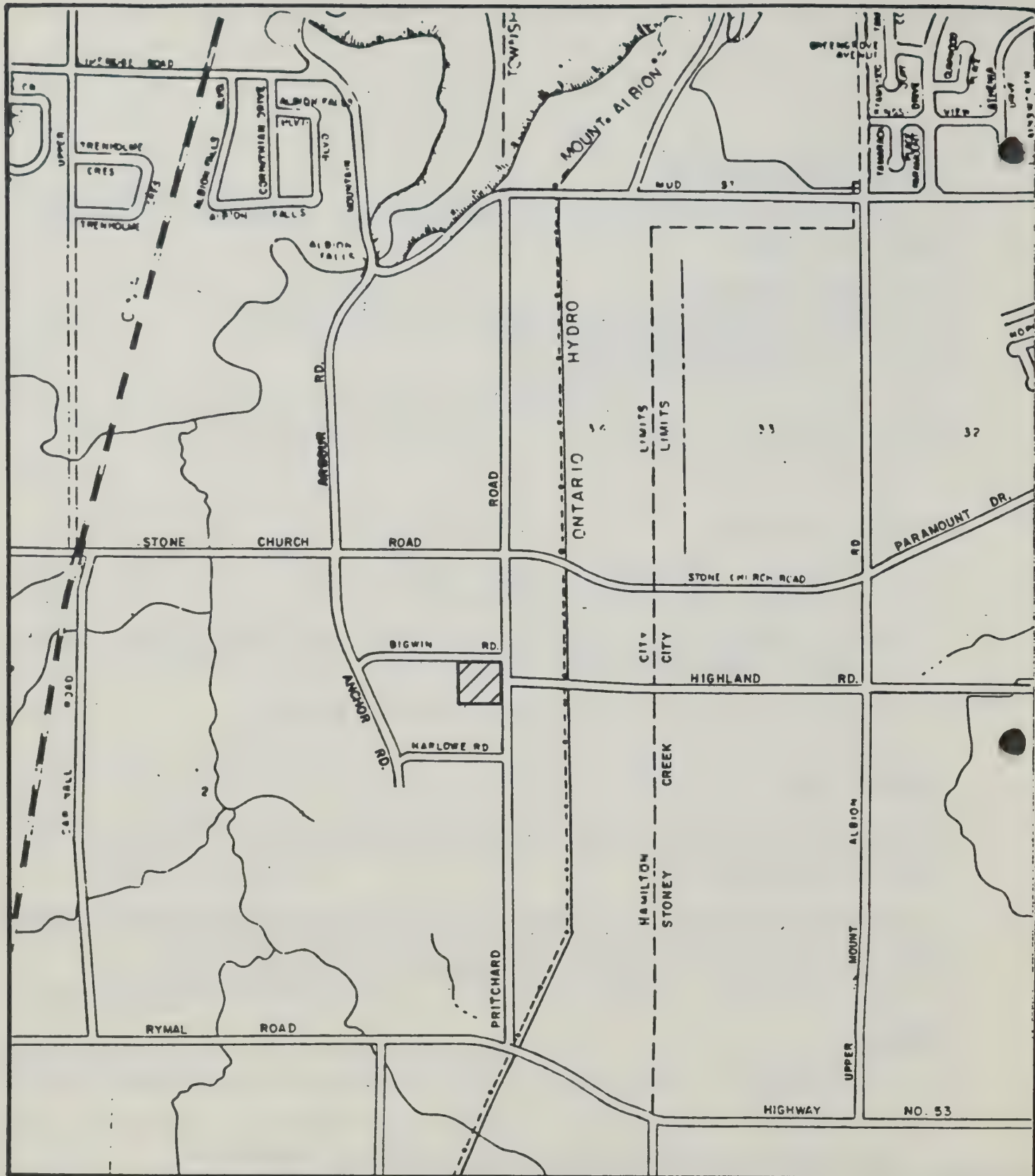
Recommendations:

The owner is to satisfy the City and Region's financial requirements in regard to all development charges and servicing cost, prior to the release of the final plan of condominium.

The proposed draft plan of condominium as prepared by A. J. Clarke and Associates Ltd. and dated September 27, 1989, is satisfactory to this department subject to the above noted "comments and recommendations."

COMMENTS:

1. The conformity of the proposal with the Official Plan and zoning By-law is noted.
2. No commenting agency has objected to the plan of condominium.
3. The lands of the proposed draft plan are lots 20, and 21 of Registered Plan of M-246.
4. The owner received Site Plan Approval under DA-88-123 on February 20, 1989 (Lot 21) and DA-89-44 on August 1, 1989 (Lot 20).



Location Plan For

ROBINSON PLACE

Regional Municipality of Hamilton-Wentworth
Planning and Development Department

Legend



PROPOSED CONDOMINIUM

North



Scale
N. T. S.

Date
OCT. 19, 1989

Reference File No.
25CDM.- 89022

Drawing No.

BIGWIN ROAD

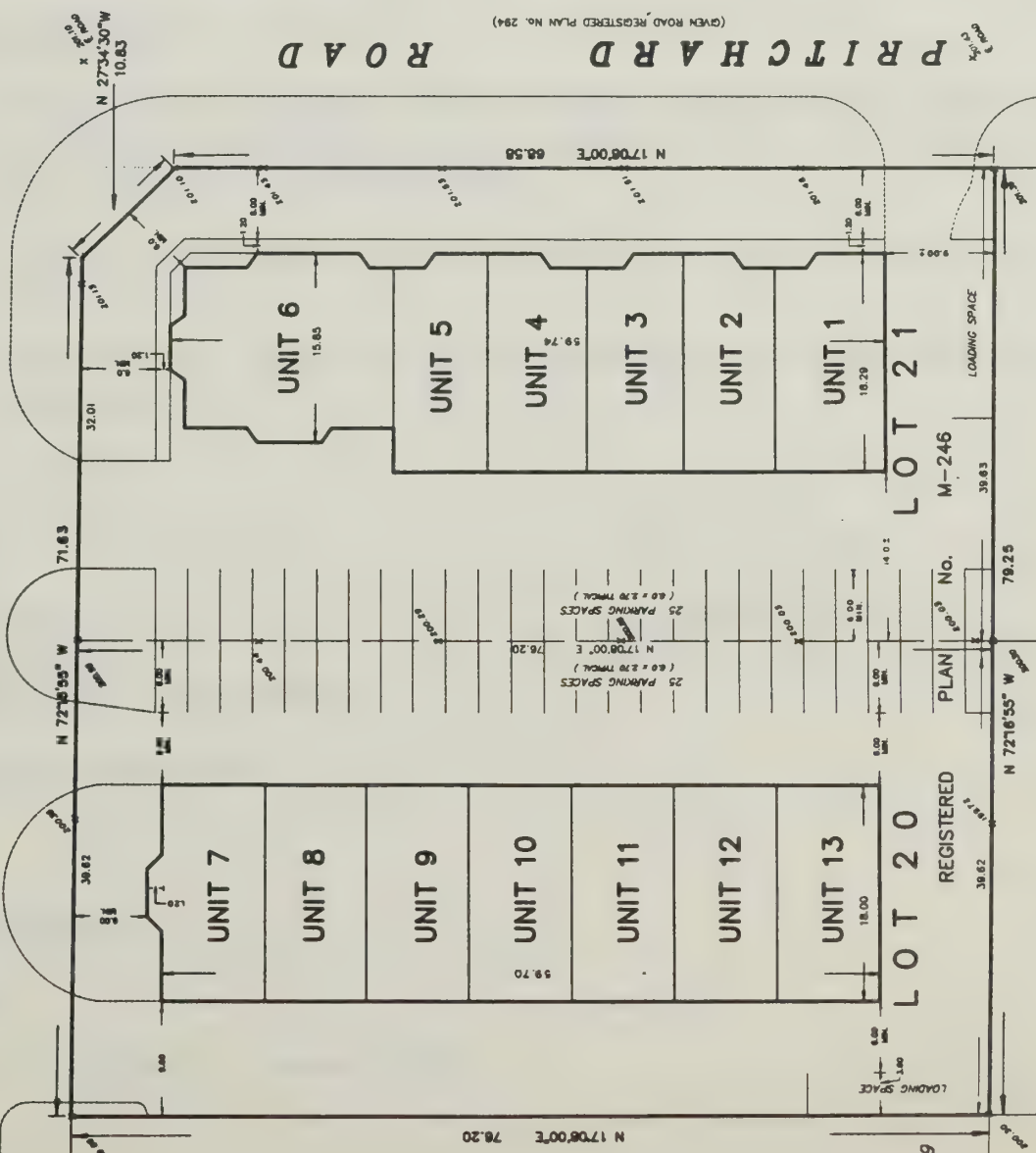
(ESTABLISHED BY PLAN M-246)



LOT 34 - CONCESSION 7
GEOGRAPHIC TOWNSHIP OF SALTLEET

Pritchard Road

(GIVEN ROAD REGISTERED PLAN No. 294)



REGISTERED PLAN No. M-246

HIGHLAND ROAD
(ORIGINAL ROAD ALLOWANCE BETWEEN CONCESSIONS 7 AND 8)

LOT 34 - CONCESSION 8
EXISTING INDUSTRIAL ZONE M-13

NOTE: EXISTING CONVEYANCE USE OBTAINED FROM A SURVEY BY A.J. CLARKE DATED AUGUST 18, 1988. EXISTING INCLUDES SURVEY LINE - 1988-89

KEY PLAN
SCALE 1:12000



DRAFT PLAN OF: ROBINSON PLACE

BEING A PROPOSED CONDOMINIUM PROJECT OF
LOTS 20 AND 21 - STONE CHURCH INDUSTRIAL PARK
REGISTERED PLAN No. M-246
IN THE
CITY OF HAMILTON
REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

SCALE 1:300
A. J. Clarke O.L.S. 1989

NOTE: THIS IS A DRAFT PLAN ONLY AND IS SUBJECT TO REVISION AND AMENDMENT
METRIC: DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

RE: CHAPTER 349-R.S.O.-1983 SECTION 50 (3) THE PLANNING ACT

- A. SHOWN ON PLAN
- B. SHOWN ON PLAN
- C. SHOWN ON PLAN
- D. SEE LAND USE SCHEDULE
- E. SHOWN ON PLAN
- F. SHOWN ON PLAN
- G. SHOWN ON PLAN
- H. MUNICIPAL PIPED WATER AVAILABLE
- I. CLAY LOAM
- J. SHOWN ON PLAN
- K. MUNICIPAL SERVICES TO BE INSTALLED BY SUBDIVISION
- L. NONE

SURVEYOR'S CERTIFICATE:

I, CERTIFY THAT THE BOUNDARIES OF THE LANDS TO BE SUBDIVIDED AS SHOWN ON THIS PLAN AND THEIR RELATIONSHIP TO ADJACENT LANDS ARE ACCURATELY AND CORRECTLY SHOWN.
SEPTEMBER 27, 1989.

DATE: A.J. CLARKE
ONTARIO LAND SURVEYOR

OWNER'S AUTHORIZATION:

WE, JOHN BRUCE ROBINSON CONST. LTD., BEING THE REGISTERED OWNERS OF THE SUBJECT LANDS HEREBY AUTHORIZE A.J. CLARKE AND ASSOCIATES TO PREPARE AND SUBMIT THIS DRAFT PLAN TO THE REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH FOR THEIR APPROVAL.
SEPTEMBER 27, 1989
DATE: JOHN BRUCE ROBINSON - PRESIDENT

LAND USE SCHEDULE:

TOTAL AREA OF SUBDIVISION = 0.601 ha (14.8 acres)
TOTAL NUMBER OF UNITS = 13
TOTAL NUMBER OF PARKING SPACES = 50
TOTAL NUMBER OF LOADING SPACES = 2

A. J. Clarke and Associates Ltd.
CONSULTING ENGINEERS AND CHARTED LAND SURVEYORS
SUITE 125 - 188 JAMES STREET SOUTH - HAMILTON - ONTARIO L8P 3A4

FOR ACTION

10b

TO: SUSAN K. REEDER, SECRETARY
PLANNING AND DEVELOPMENT
COMMITTEE

DATE:
COMM FILE:
DEPT FILE:

February 13, 1990

SA-89-24
25CDM-89023

FROM: J. D. THOMS, COMMISSIONER
PLANNING AND DEVELOPMENT DEPARTMENT

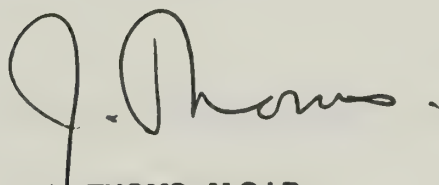
SUBJECT:

Proposed Draft Plan of Condominium

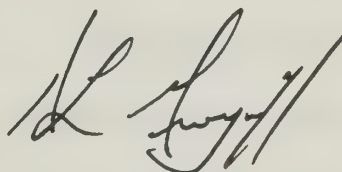
RECOMMENDATION:

That approval be given to Application SA-89-24, "Bentley Place", Branocon (Hamilton) Ltd., owner, to establish a draft plan of condominium located at the north-east corner of Jackson Street West and Caroline Street South, subject to the following conditions:

- (1) That this approval apply to the plan prepared by A. J. Clarke and Associates Ltd., dated August 29, 1989.
- (2) That the owner satisfy the financial requirements of the Regional Municipality of Hamilton-Wentworth.



J. D. THOMS, M.C.I.P.
COMMISSIONER
PLANNING AND DEVELOPMENT



A. L. GEORGIEFF, M.C.I.P.
DIRECTOR - LOCAL PLANNING

FINANCIAL IMPLICATIONS:

N/A

BACKGROUND:

Owner:

Branocon (Hamilton) Ltd., Dundas, Ontario.

Surveyor:

A. J. Clarke and Associates Ltd., Hamilton, Ontario.

Location:

The lands, comprising 0.25 ha, are located at the north-east corner of Jackson Street West and Caroline Street South in the Durand Neighbourhood, City of Hamilton.

Proposal:

The owner is in the process of constructing a 21-storey apartment building with 96 units as a condominium project.

EXISTING DEVELOPMENT CONTROLS:

Hamilton-Wentworth Official Plan - The lands are identified as "Regional Centre". The proposal complies.

City of Hamilton Official Plan - The lands are designated "Residential". The proposal complies.

Neighbourhood Plan - The lands are designated "Residential - High Density Apartments". The proposal complies.

Zoning - The lands are zoned "HI/S-57a" (Civic Centre Protected Districts). The proposal complies.

Niagara Escarpment - The lands are not within the "Development Control Area", therefore, the regulations do not apply.

COMMENTS FROM CIRCULATION:

The following agencies have advised that they have no comment or objection toward the proposal:

- o Ministry of the Environment;
- o City Traffic Department;
- o City Building Department;
- o Ontario Hydro, Union Gas, Bell Telephone.

The Regional Department of Engineering has submitted the following comments and recommendations:

"FOR INFORMATION:

- (1) Public storm and sanitary sewers are available on Caroline Street South to service the development.
- (2) Public watermain are available on both Caroline Street South and Jackson Street West to service the development.

- (3) A road widening along the proposed development on Caroline Street South is in the process of being dedicated to the City.

RECOMMENDATIONS:

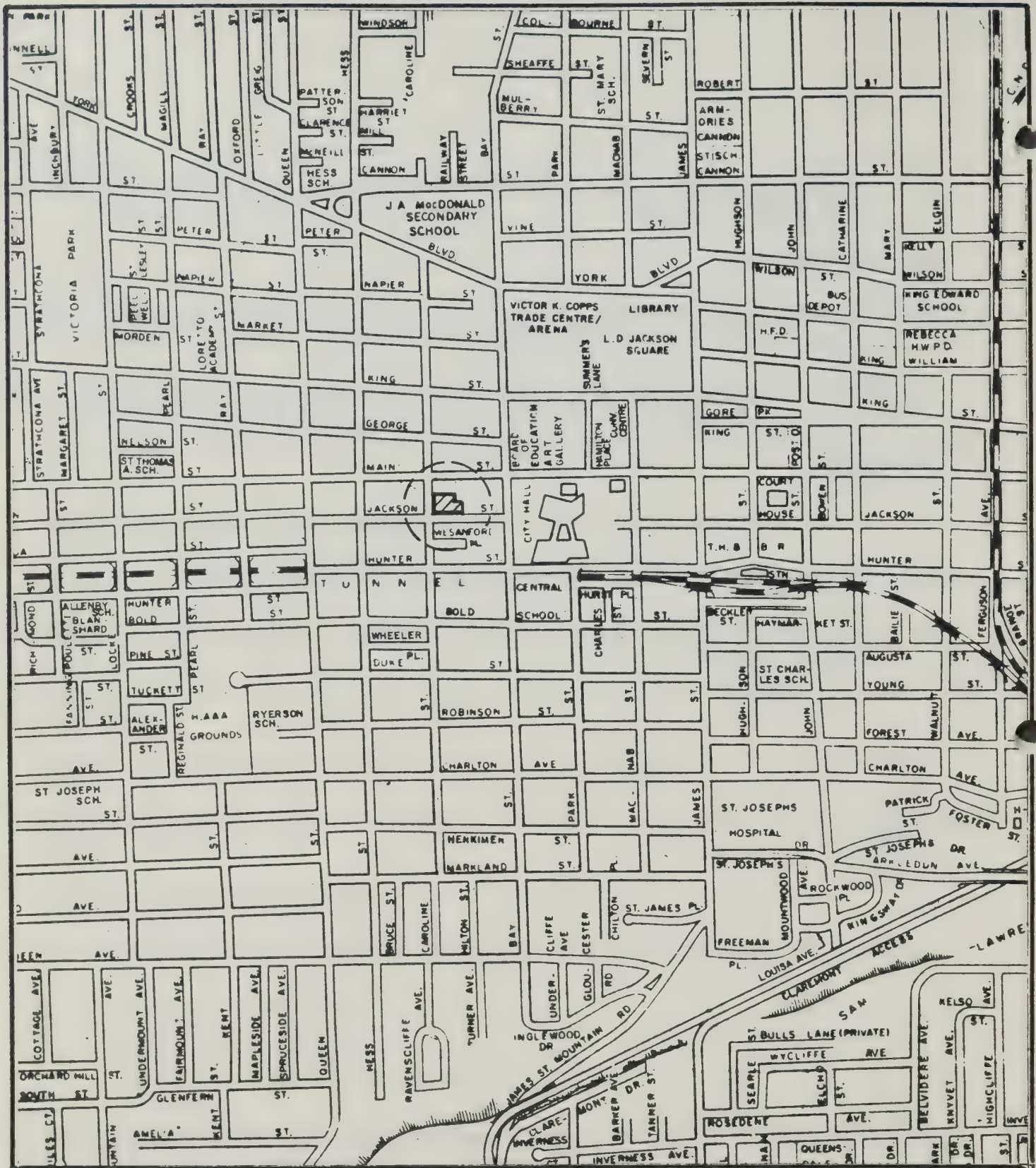
- (1) The owner is to satisfy the Region's financial requirements in regards to Development Charges prior to the release of the final plan of Condominium.

The proposed draft plan of condominium, as prepared by D. G. Fraser O.L.S., and dated August 29, 1989, is satisfactory to this Department subject to the above noted comments and recommendations".

COMMENTS:

- (1) The conformity of the proposal with the Official Plans and Zoning By-law is noted.
- (2) No commenting agency has objected to the proposed condominium project.
- (3) The owner received approval of a Site Plan under Application DA-89-04, to which the condominium proposal conforms.

JCS/II
P&DReport
SA-89-24



Location Plan For

BENTLEY PLACE

Regional Municipality of Hamilton-Wentworth
Planning and Development Department

Legend



PROPOSED CONDOMINIUM

North



Scale
N.T.S.

Date
OCT. 19, 1989

Reference File No.
25CDM-89023

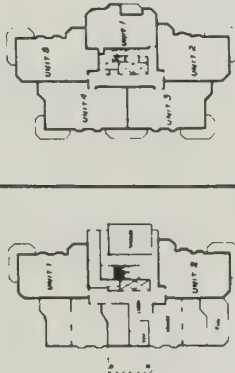
Drawing No.

MAIN STREET WEST

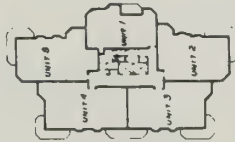
CAROLINE STREET SOUTH

JACKSON STREET WEST

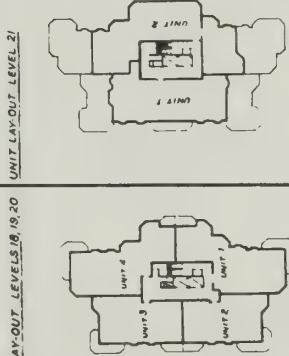
BAY STREET SOUTH



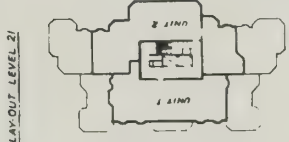
UNIT LAY-OUT - LEVEL 1



UNIT LAY-OUT - LEVELS 2-17

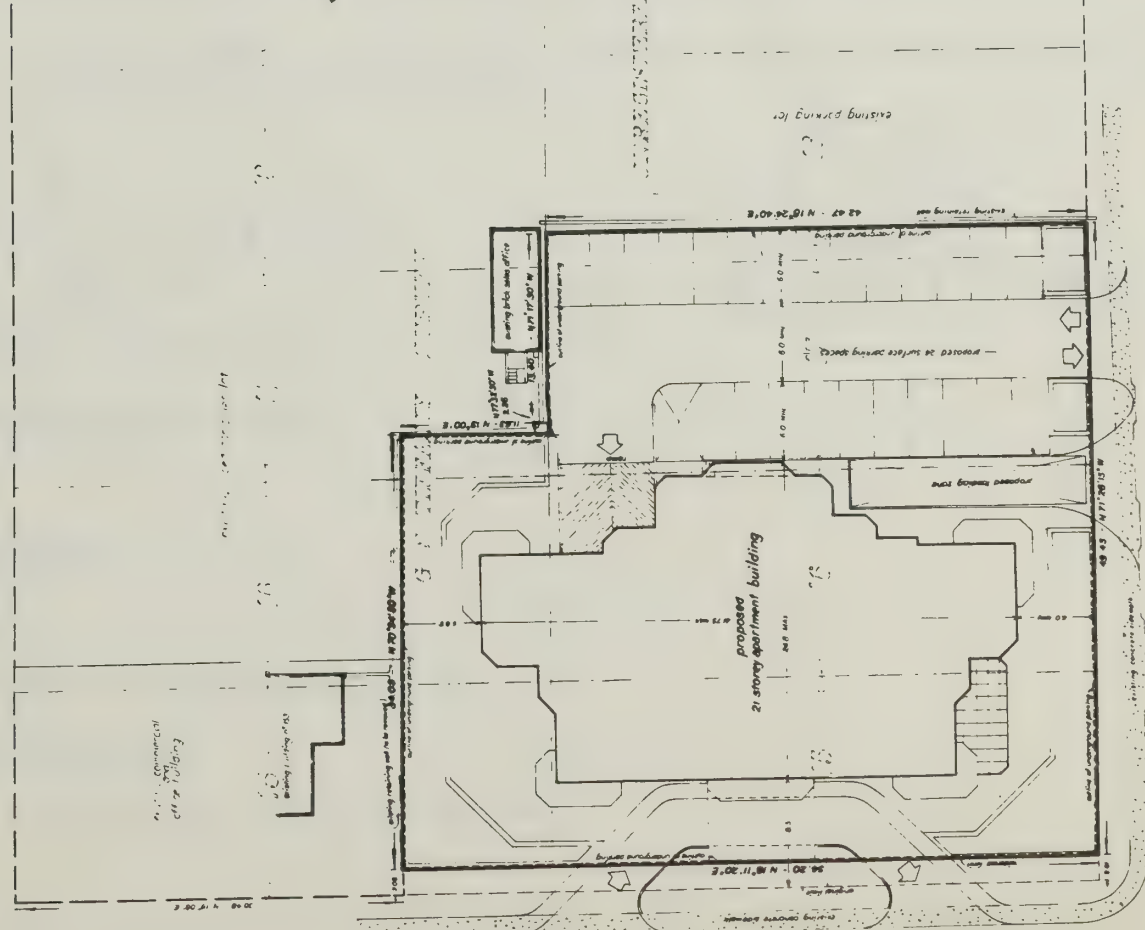
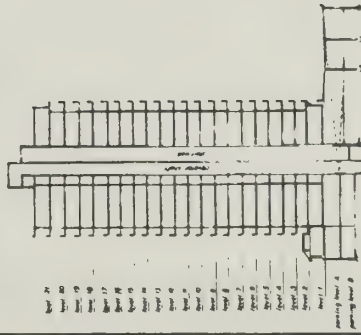


UNIT LAY-OUT - LEVELS 18, 20



UNIT LAY-OUT - LEVEL 21

CROSS SECTION SHOWING LEVELS



Key Plan

SCALE 1" = 200'

DRAFT PLAN OF

Bentley Place

BEING A PROPOSED CONDOMINIUM PROJECT OF:

PART OF LOTS 15, 16 AND 17 ON THE SOUTH SIDE OF MAIN ST. AND LOTS 16, 17 AND 18 ON THE NORTH SIDE OF JACKSON ST. IN THE BLOCK BOUNDED BY JACKSON, BAY, MAIN AND CAROLINE STREETS ACCORDING TO S.S. TIFFANY SURVEY - UNREGISTERED

CITY OF HAMILTON
REGIONAL MUNICIPALITY OF HAMILTON, WENTWORTH

SCALE 1" = 200'

Q. & F. 1989 O.L.S. 1989

THIS IS A DRAFT PLAN ONLY AND IS SUBJECT TO REVISION AND AMENDMENT

DISTANCES SHOWN ON THIS PLAN ARE IN METERS AND ARE NOT TO BE CONSIDERED AS PART OF THE SURVEY

Surveyor's Declaration: I, the undersigned, being a duly qualified and licensed Surveyor of the Province of Ontario, do hereby certify that the boundaries of the lands to be subdivided as shown on this plan and their relationship to the adjacent lands are accurately and correctly shown

AUGUST 25, 1989 DATE

Surveyor's Signature: [Signature]

Surveyor's Name: [Name]

Surveyor's Address: [Address]

Surveyor's Phone: [Phone]

Surveyor's License No.: [License No.]

Surveyor's Registration No.: [Registration No.]

Surveyor's Commission No.: [Commission No.]

Surveyor's Expiry Date: [Expiry Date]

Surveyor's Office: [Office]

Surveyor's Website: [Website]

Surveyor's Email: [Email]

Surveyor's Fax: [Fax]

Surveyor's Mobile: [Mobile]

Surveyor's Pager: [Pager]

Surveyor's Car: [Car]

Surveyor's Home: [Home]

Surveyor's Work: [Work]

Surveyor's Other: [Other]

Surveyor's Notes: [Notes]

Surveyor's Comments: [Comments]

Surveyor's Remarks: [Remarks]

Surveyor's Observations: [Observations]

FOR ACTION

10c.

REPORT TO: SUSAN K. REEDER, SECRETARY OF THE
PLANNING AND DEVELOPMENT COMMITTEE

FROM: J. D. THOMS
COMMISSIONER
PLANNING AND DEVELOPMENT

DATE: 1990 FEBRUARY 9
COMM FILE:
DEPT FILES: SA-89-27
25CDM-89025

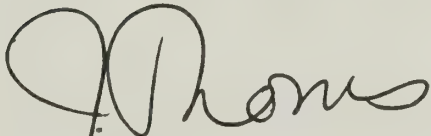
SUBJECT

Proposed Draft Plan of Condominium

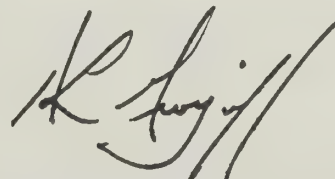
RECOMMENDATION

That approval be given for application SA-89-27 by "Kingsmount Place Properties I Inc.", owner, to establish a draft plan of condominium located on the north west corner of Broughton Avenue and Grayrocks Avenue, subject to the following conditions:

1. That this approval apply to the plan prepared by J. D. Barnes Limited dated October 10, 1989, showing 33 Townhouse Units.
2. That the owner satisfy all financial requirements of the Regional Municipality of Hamilton-Wentworth.



J. D. Thoms, M.C.I.P.
Commissioner
Planning and Development



A. L. Georgieff, M.C.I.P.
Director - Local Planning

FINANCIAL IMPLICATIONS

N/A

BACKGROUND

Owner

Kingmount Place Properties I Inc.

Surveyor/Agent

J. D. Barnes Ltd., Hamilton, Ontario

Location

The lands comprising 0.925 ha are located south of Rymal Road East and west of Grayrocks Avenue, in the Broughton East Neighbourhood, City of Hamilton.

Proposal

The owner is in the process of constructing 33 Townhouse Units within 5 buildings as a Condominium Project.

EXISTING DEVELOPMENT CONTROLS

Hamilton-Wentworth Official Plan - the lands are identified as "Residential and Related Uses" within the "Urban Policy Area". The proposal complies.

City of Hamilton Official Plan - the lands are designated "Residential". The proposal complies.

Neighbourhood Plan - the lands are designated for "attached housing". The proposal complies.

Zoning - the lands are zoned "RT-10" (Townhouses) District. The proposal complies.

Niagara Escarpment Commission - the lands are not within the Development Control Area, therefore, the regulations do not apply.

COMMENTS FROM CIRCULATION

The following agencies have advised that they have no comment or objection toward the proposal:

- o City Traffic Department;
- o City Building Department;
- o Ministry of the Environment;
- o Ontario Hydro, Union Gas, Bell Canada;
- o City of Hamilton Board of Education.

The Regional Department of Engineering forwarded the following comments and recommendation:

For information:

- "1. Sanitary and storm sewers and watermain are available on the abutting streets for servicing the subject lands.
2. There are no additional road widenings required for this property.
3. The Region's subdivision agreement for "Lillian Heights - Phase 1" provides for the payment of all service costs.

Recommendation:

1. The subdivider is to satisfy the Region's financial requirements in regards to Development charges prior to the release of the final plan of condominium.

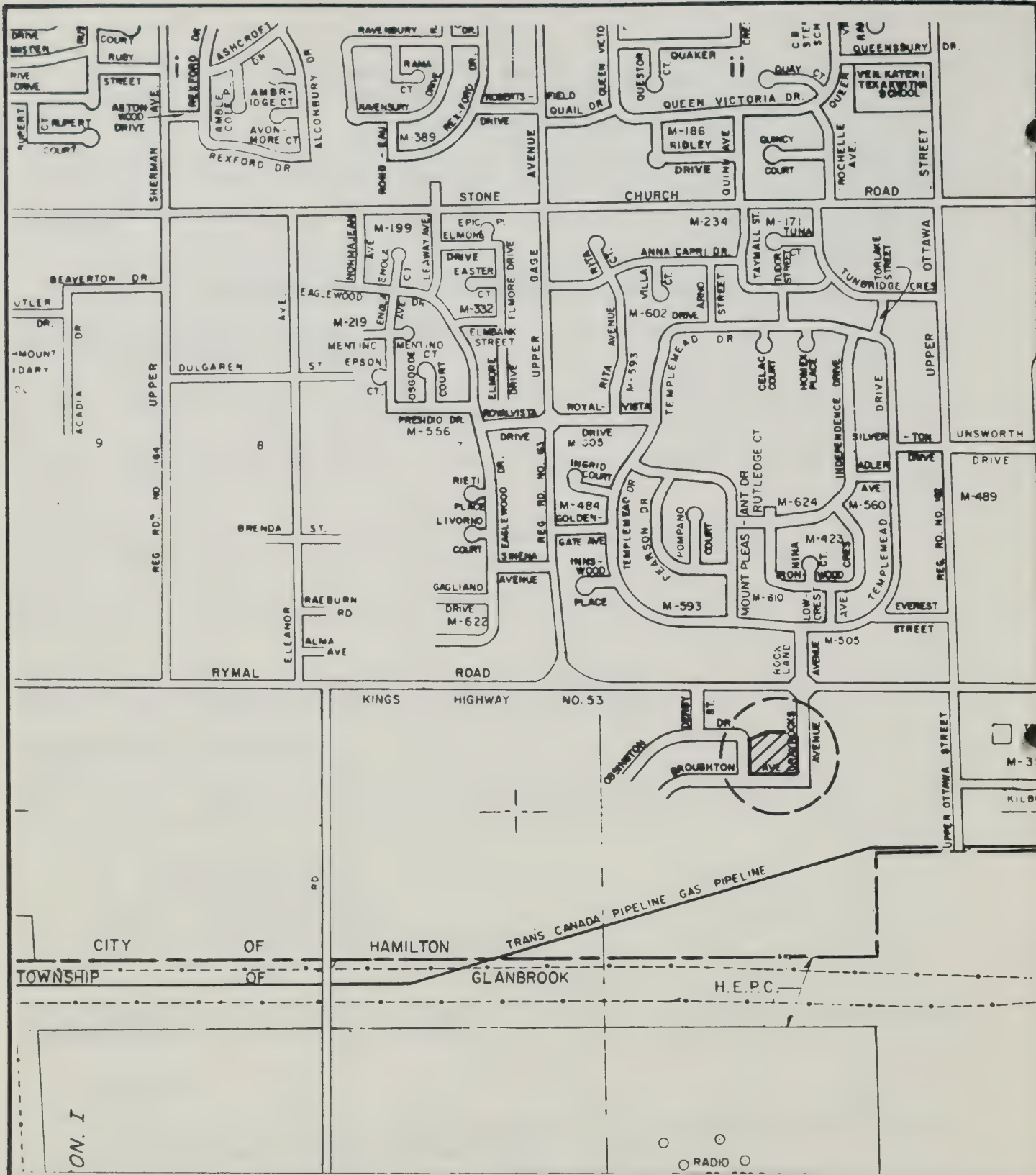
The proposed draft plan of condominium as prepared by Lawrence G. Woods, O.L.S. and dated October 10, 1989, is satisfactory to this department subject to the above-noted comments and recommendations."

COMMENTS

1. The conformity of the proposal with the Official Plans and the Zoning By-law is noted.
2. No commenting agency has objected to the plan of condominium.
3. The owner has received Site Plan approval under DA-89-10 on April 25, 1989.

CMD:dc

0239P



Location Plan For

LILLIAN HEIGHTS (PHASE 1)

Regional Municipality of Hamilton-Wentworth
Planning and Development Department

Legend



PROPOSED CONDOMINIUM

North



Scale

1" = 1000'

Reference File No.

25CDM-89025

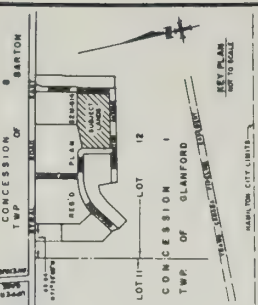
Date

NOV. 13, 1989

Drawing No.

ITEMS UNIT	DATE	TOTAL AREA	REMARKS
32 RESIDENTIAL UNITS	1989	0.0000 m	AS SHOWN

NOTE
"S" and "N" DESIGNATIONS INDICATE PROPOSED
ELEVATIONS AND TYPICALS OF THE COMMON ELEMENTS



DRAFT PLAN OF CONDOMINIUM OF BLOCK 39 LILLIAN HEIGHTS (PHASE I) REGISTERED PLAN 62M-614 CITY OF HAMILTON MUNICIPALITY OF REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH HAMILTON, ONTARIO

J.D. BARNES LIMITED - 1989

METRIC
ALL DIMENSIONS SHOWN ON THIS PLAN ARE IN METERS AND
MILLIMETERS. DIMENSIONS IN PARENTHESES ARE IN FEET AND
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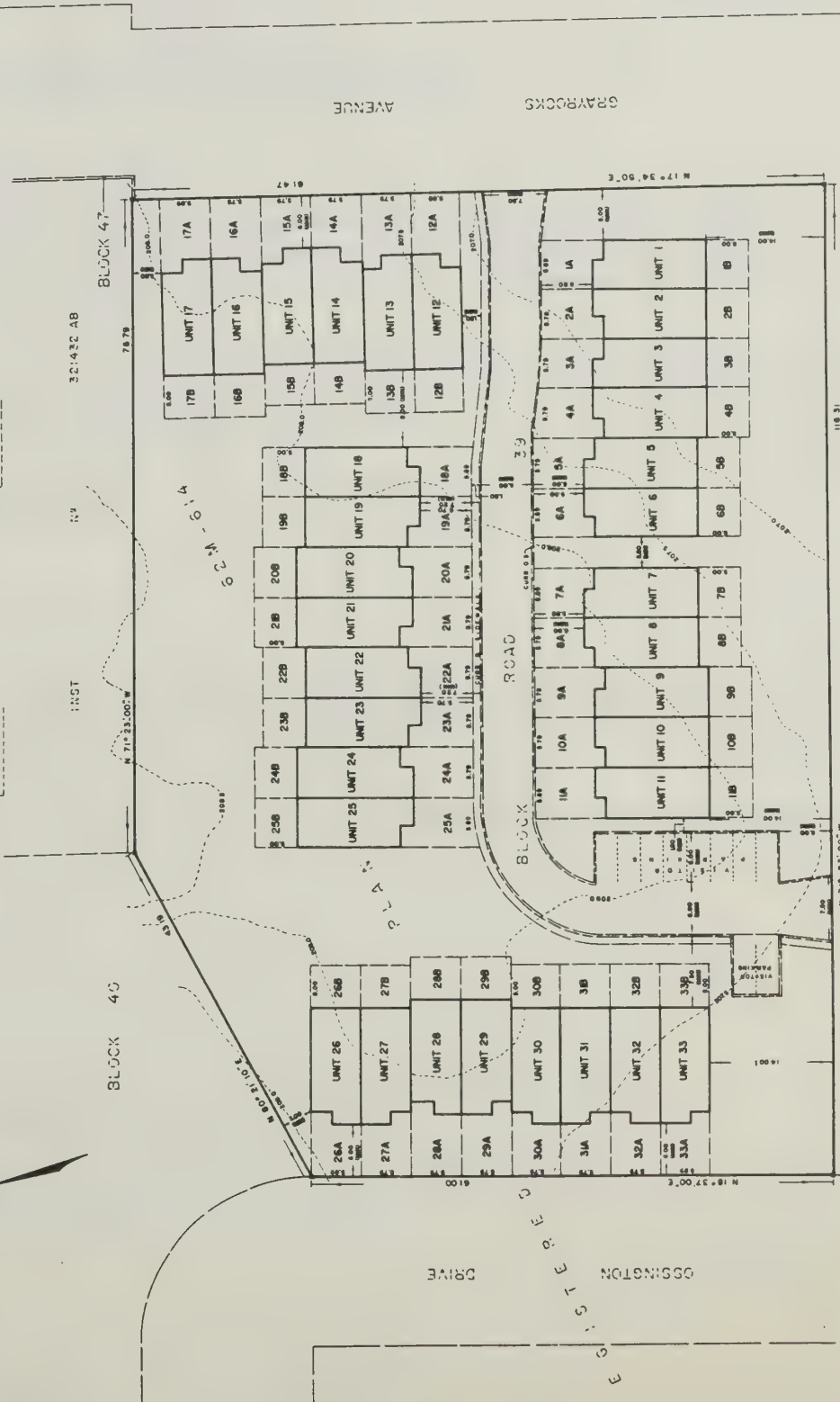
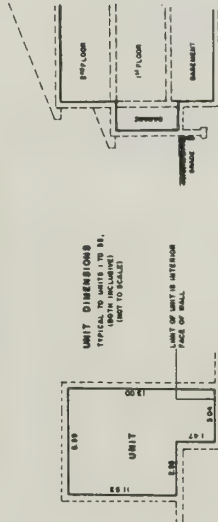
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AVENUE

ROUGHTON

OSINGTON DRIVE

OWNER'S CERTIFICATE
I, the undersigned, being the owner of the land shown on the plan, do hereby certify that the plan is a true and correct copy of the original plan as filed in the office of the Registrar of Deeds.

SURVEYOR'S CERTIFICATE
I, the undersigned, being a duly qualified surveyor, do hereby certify that the plan is a true and correct copy of the original plan as filed in the office of the Registrar of Deeds.

NOTE: THIS PLAN IS A DRAFT PLAN ONLY AND IS SUBJECT TO REVISION AND AMENDMENT.

FOR ACTION

REPORT TO: Mrs. S. K. Reeder
Secretary, Planning and Development Committee

FROM: C. J. Coutts, Secretary
Local Architectural Conservation
Advisory Committee

DATE: 1990 January 30

COMM FILE:
DEPT FILE:

SUBJECT: DESIGNATION OF 33 UNDERMOUNT AVENUE

RECOMMENDATION:

- a) That approval be given to the "Intent to Designate" the single-family dwelling at 33 Undermount Avenue as a property of historical and architectural value, pursuant to the provisions of the Ontario Heritage Act, 1983; and,
- b) That the City Solicitor be authorized and directed to take appropriate action to have this property designated pursuant to the provisions of the Ontario Heritage Act, 1983.

C. J. Coutts

FINANCIAL IMPLICATIONS: (IF NONE, STATE N/A)

N/A

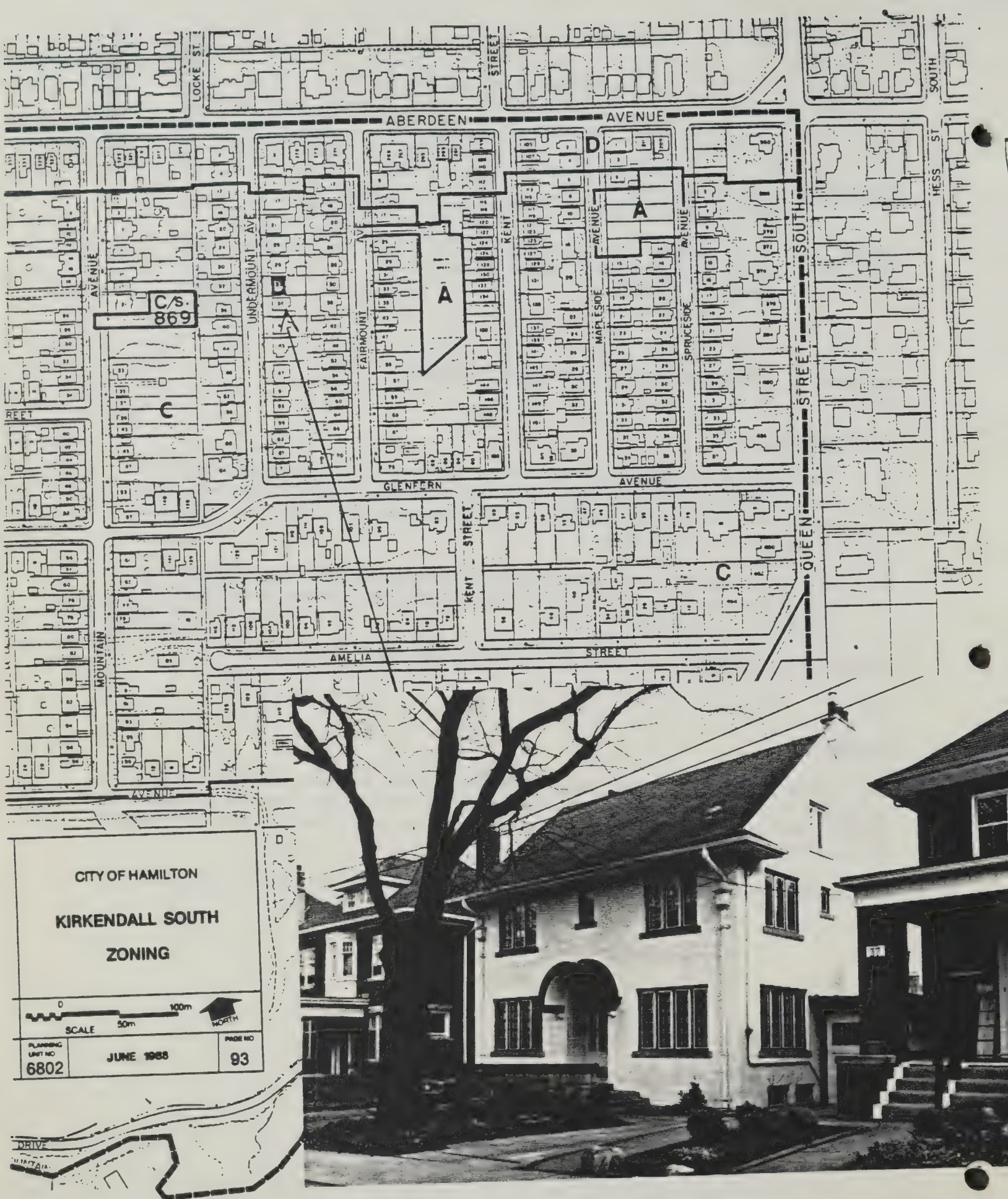
BACKGROUND:

LACAC gave preliminary approval to the designation of this property at its last meeting, in response to a written request for designation from the owners of the house. Subsequent approval to designate this property came at the 1990 January 30 meeting of LACAC.

Photograph, map, planning information and Reasons for Designation are attached.

Attached

c.c. Mr. A. Georgieff, Director of Local Planning
Mrs. N. Chapple, Planning Department



CITY OF HAMILTON

**KIRKENDALL SOUTH
ZONING**

0 50m 100m
SCALE

PLANNING UNIT NO. 6802
JUNE 1988
PAGE NO. 93

33 Undermount Avenue

REASONS FOR DESIGNATION

33 Undermount Avenue

Context

Built in 1916-17 for lawyer John R. Marshall, the house at 33 Undermount Avenue is located in the Kirkendall South Neighbourhood, an early 20th century, upper middle-class residential area extending south of Aberdeen Avenue to the escarpment and west to the Chedoke Civic Golf Course. Typical of this area, Undermount Avenue is a pleasant, tree-lined street with a homogenous mix of 2 1/2 storey brick houses.

The properties on either side of Undermount Avenue, a north-south street just west of Locke Street South between Aberdeen and Glenfern Avenue, comprise the survey laid out for Williams, Powell & Francis and sold to the Cumberland Land Co. Ltd. in 1909. The uniform size, quality and set-back of the houses may be attributed to building restrictions in the form of restrictive covenants registered on the original deeds to the lots.

Historical Associations

Of historical interest is the association of 33 Undermount Avenue with the original owner, John R. Marshall, who owned and occupied the house until 1943.

John Roy Marshall was a noted corporate lawyer in partnership for fifty years with Major-General the Honourable S.C. Mewburn. Marshall joined the firm of Mewburn & Ambrose in 1906, becoming a full partner in 1916. In the course of his distinguished legal career, he served for 25 years as a bencher for the Law Society of Upper Canada, subsequently being made a life bencher, and in 1933 was appointed a King's Counsel.

Architectural Significance

This residence, one of the most distinctive on Undermount Avenue, features roughcast masonry walls, a broad symmetrical facade with a central doorway protected by a round-arched canopy, a side-gabled roof with deep flared returned eaves, and multi-paned casement windows. Its individuality stems from the eclectic combination of classical proportions and symmetry with elements borrowed from contemporary English domestic architecture: the roughcast walls, casement windows, and absence of revivalist detail.

An unusual feature of the simply detailed interior is the ornate curvilinear marble mantelpiece in the living room.

Designated Features

Important to the preservation of 33 Undermount Avenue are the original features of the west (front), north and south facades, including the casement windows and canopied entrance, and the living room mantelpiece.

PLANNING INFORMATION

33 Undermount Avenue

DATE: November 1989

HERITAGE STATUS: Listed on the Inventory

NEIGHBOURHOOD: Kirkendall South

ZONING: "C" District (Urban Protected Residential), which permits single-family and converted dwellings, foster homes, residential care facilities, and certain institutional and public uses (see sec. 9 of Zoning By-law).

Maximum permitted building height: 2 1/2 storeys

No current or recent zoning applications.

SITE PLAN CONTROL: Not under site plan control.

OFFICIAL PLAN POLICIES: Designated "Residential" in the Official Plan (Schedule "A" - Land Use Concept).
Primary uses permitted: various types of dwellings and compatible land uses which serve the needs of local residents (i.e. public parks, institutional and commercial uses on sites less than .4 ha - approx. 1 acre). Home occupation uses and medical offices may also be permitted.

NEIGHBOURHOOD PLAN POLICIES: Designated "Single and Double Residential" in the approved neighbourhood plan.

12.

FOR ACTION

REPORT TO: SUSAN K. REEDER, SECRETARY OF THE
PLANNING AND DEVELOPMENT COMMITTEE

FROM: J. D. THOMS
COMMISSIONER
PLANNING AND DEVELOPMENT

DATE: 1990 FEBRUARY 12
COMM FILE:
DEPT FILES: SA-89-29
ZA-89-117
25T-89039

SUBJECTS: Proposed Rezoning Application
Proposed Draft Plan of Subdivision "Peace Manor"

RECOMMENDATION

1. **Rezoning Application:**

That approval be given to Zoning Application 89-117, J. Peace, owner, requesting changes in zoning from "AA" (Agricultural) District to "R-2" (Urban Protected Residential - One and Two Family Dwellings) District (Block "1"), and "C" (Urban Protected Residential etc.) District (Block "2") to recognize the existing two-family dwelling (Block "1") and to permit the development of the remaining lands for single-family dwellings (Block "2"), for the property located at No. 322 Mount Albion Road, as shown on the attached map marked as APPENDIX "A", on the following basis:

- i) That Block "1" be rezoned from "AA" (Agricultural) District to "R-2" (Urban Protected Residential - One and Two-Family Dwellings) District;
- ii) That Blocks "2" and "3" be rezoned from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District;
- iii) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-88 for presentation to City Council;
- iv) That the proposed change in zoning is in conformity with the Official Plan of the Hamilton Planning Area.

EXPLANATORY NOTE:

The purpose of the by-law is to provide for changes in zoning from "AA" (Agricultural) District to "R-2" (Urban Protected Residential - One and Two Family Dwellings) District (Block "1") and "C" (Urban Protected Residential, etc.) District (Block "2"), for the property located at No. 322 Mount Albion Road.

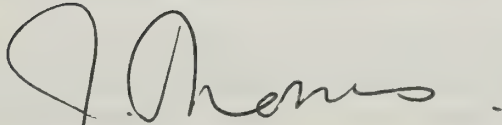
In addition, a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District (Block "3") is provided for in the remnant parcel of land at the south end of No. 316 Mount Albion Road, as shown on the attached map.

The effect of the by-law is to recognize the existing two-family dwelling (Block "1"), to permit the development of the remaining lands for single-family dwellings (Block "2"), and to establish uniform zoning across the property at No. 316 Mount Albion Road (Block "3").

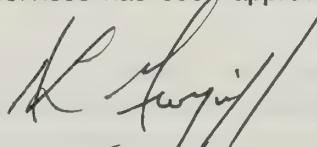
2. Subdivision Application

- a) That approval be given to Application SA-89-29, Henry Young, prospective owner, to establish a draft plan of subdivision on the west side of Mount Albion Road south of Kingswood Drive, subject to the following conditions:
 1. That approval apply to the plan prepared by MacKay, MacKay and Peters Limited, dated October 30, 1989, showing 15 lots, one block (Block "16") for development with adjacent lands and revised to show a 0.3m reserve (Block "17") along the open side of the road allowance.
 2. That the street be dedicated to the City of Hamilton as public highway on the final plan.
 3. That the street be named Glen Forest Drive.
 4. That the final plan conform to the zoning by-law approved under The Planning Act.
 5. That such easements as may be required for utility or drainage purposes be granted to the appropriate authority.
 6. That the owner provide the City of Hamilton with a certified list showing the net area and width of each lot and block in the final plan.
 7. That the owner make a cash payment in lieu of the conveyance of 5% of the land included in the final plan to the City of Hamilton for park purposes.
 8. That Block "16" be developed in conjunction with abutting lands.
 9. That the open side of the road allowance be terminated with a 0.3m reserve (Block "17") to be conveyed to the City of Hamilton and be held by the City until required for development of the adjacent lands.
 10. That the street align with the existing streets to the north and south.

11. That the owner shall erect a sign in accordance with Section XI of the subsequent Subdivision Agreement prior to the issuance of a final release by the City of Hamilton.
 12. That the owner agree in writing to satisfy all the requirements, financial and otherwise, of the City of Hamilton.
- b) That the Subdivision Agreement be entered into by the Corporation of the City of Hamilton and the owner to provide for compliance with the conditions of approval established by the Hamilton-Wentworth Region with respect to this application (SA-89-29), Henry Young, prospective owner, proposed draft plan of subdivision, and that the City execute the agreement when the said conditions have been met and the City's share of the cost of installing municipal services has been approved by City Council.



J. D. Thoms, M.C.I.P.
Commissioner
Planning and Development



A. L. George, M.C.I.P.
Director - Local Planning

FINANCIAL IMPLICATIONS

N/A

BACKGROUND:

Owner: J. Peace and Henry Young (prospective), Hamilton, Ontario

Surveyor: MacKay, MacKay and Peters Limited, Hamilton, Ontario

Location: The lands, comprising 0.95 ha, are located on the west side of Mount Albion Road south of Kingswood Drive, in the Red Hill Neighbourhood, City of Hamilton.

Land Use and Zoning:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	two-family dwelling	"AA" (Agricultural) District
<u>Surrounding Lands</u>		
to the north, south and west	single-family dwellings	"C" (Urban Protected Residential, etc.) District
to the east	orchard	"AA" (Agricultural) District

Proposal - Zoning

The owner has requested that the property be rezoned from "AA" (Agricultural) District to "R-2" (Urban Protected Residential - One and Two Family Dwellings) District and "C" (Urban Protected Residential, etc.) District.

Proposal - Subdivision

The prospective owner proposes to subdivide the bulk of the lands into 15 lots for single-family dwellings and a block for development with abutting lands. The lots will be serviced from a new street extension of Glen Forest Drive and from Mount Albion Road. The minimum lot size proposed has a width of 13.72m and an area of 425m².

EXISTING DEVELOPMENT CONTROLS

Hamilton-Wentworth Official Plan - the lands are identified as "Urban Policy Area - Existing Development". The proposal complies.

City of Hamilton Official Plan - the lands are designated "Residential". The proposal complies.

Neighbourhood Plan - the lands are designated "Residential - single and double". The proposal complies.

Zoning - the lands are zoned "AA" (Agricultural) District. An amendment to the Zoning By-law is required to permit the proposed subdivision.

Niagara Escarpment - the lands are not within the "Development Control Area", therefore, the regulations do not apply.

COMMENTS FROM CIRCULATION

Zoning Application

The following Departments and agencies have no comment or objections:

- Engineering;
- Building;
- Traffic;
- Regional Police; and
- Hamilton Region Conservation Authority.

LACAC Research Sub-Committee has advised that:

"This large late Victorian brick farmhouse is quite unusual in that it was built as a two family residence. The symmetrical front facade features two two-storey bay windows but no central doorway, the main entrances to each dwelling unit being located on the side facades.

The Committee had no objections to the rezoning provided that the house would be retained."

Subdivision Application

The following agencies have advised that they have no comment or objection toward the proposal:

- o Ministry of Transportation;
- o Ministry of the Environment (subject to standard noise conditions for Lots 12-15 inclusive);
- o Ministry of Natural Resources;
- o Ministry of Culture and Communications;
- o Niagara Escarpment Commission;
- o Hamilton Region Conservation Authority;
- o Ontario Hydro, Union Gas, Bell Telephone;
- o City of Hamilton Board of Education;
- o City Traffic Department;
- o City Building Department (subject to rezoning).

The Hamilton-Wentworth Department of Engineering has submitted the following comments and recommendations:

"For Your Information:

1. Municipal storm and sanitary sewer services are available to service subject lands.
2. Municipal watermains are available to service subject lands.

3. No additional road widenings required with respect to development of this subdivision.

Recommendations:

1. The owner must enter into a subdivision agreement with the City and Region prior to the development of any portion of these lands.
2. The owner is to satisfy the City and Region's financial requirements in regards to all development charges and servicing costs, prior to the release of the plan of subdivision.
3. The City requires a one-foot reserve on all lands abutting Glen Forest Drive, along the north east side, approx. 39.6m long for future cost recoveries related to development of lands adjacent to this subdivision.
4. That the centre line of proposed roadway align with the existing road at either end of the proposed subdivision on Glen Forest Drive.

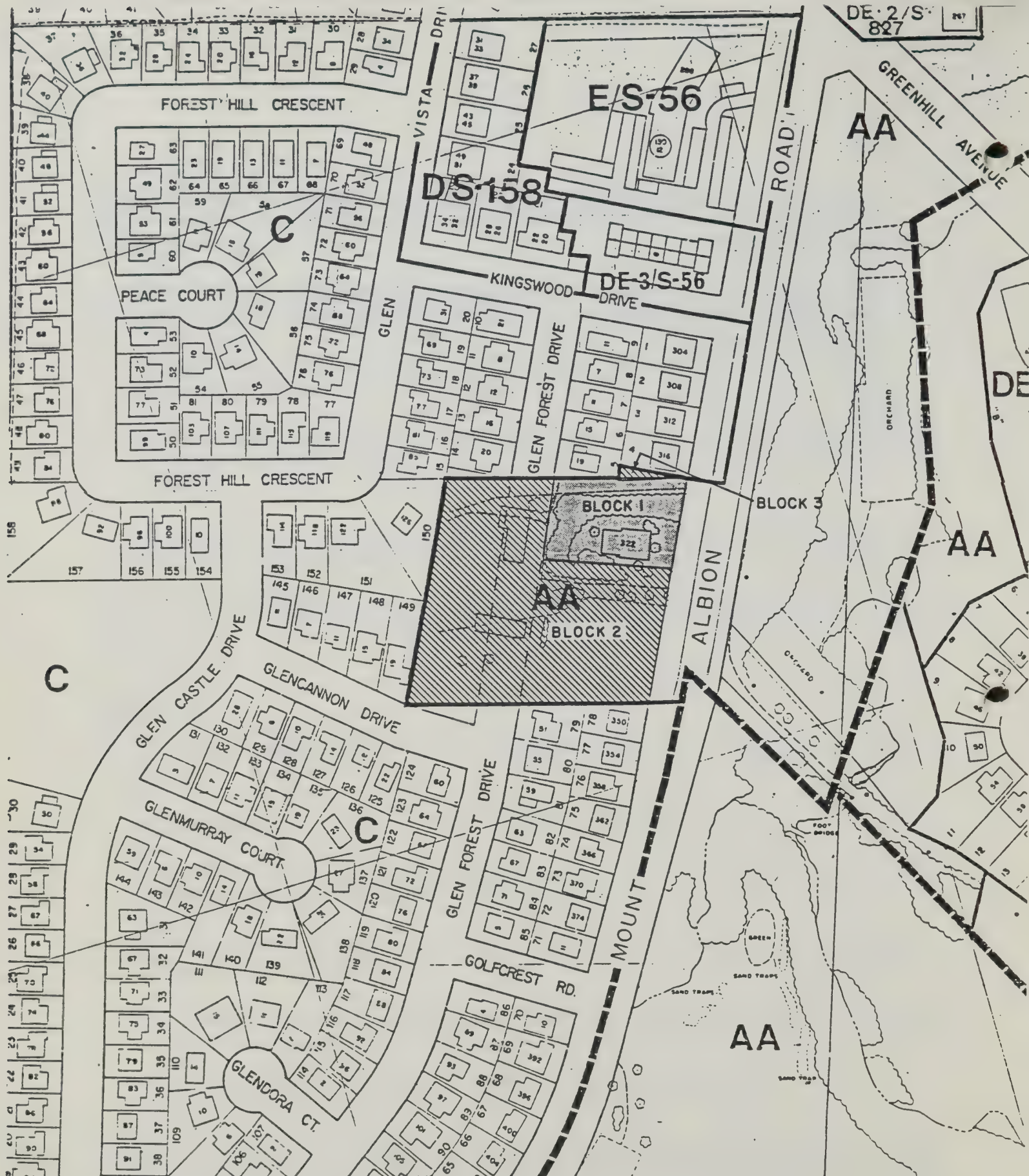
The proposed draft plan of subdivision as prepared by David Peters O.L.S. dated October 30, 1989 is satisfactory to this Department subject to the above-noted comments and recommendations."

COMMENTS

1. The proposal complies with the intent of the Official Plan and the approved Red Hill Neighbourhood Plan.
2. The proposal (Blocks "1" and "2") can be supported for the following reasons:
 - a) according to LACAC, the two-family dwelling has been in existence for a number of years, and the proposed "R-2" Zoning district would reflect this use;
 - b) it is located on a large lot (142 ft. x 213 ft.) which can accommodate the 2 required parking spaces;
 - c) the proposed single-family dwellings represent infill development given the lands are surrounded by single-family dwellings to the north, south and west;
 - d) it implements the intent of both the Official Plan and Neighbourhood Plan.
3. During the processing of the zoning application, it was discovered that Block "3" was a remnant parcel of "AA" land which is part of the property at No. 316 Mount Albion Road. The parcel should be rezoned to "C" to establish uniform zoning across the lands. It is important to note that an additional lot will not be created as a result of this rezoning.



4. As no part of the subject land is designated for park or recreational use on the approved neighbourhood plan, it is recommended that the parkland requirement for this subdivision be taken as cash-in-lieu of land.
5. The requirements of the Ministry of the Environment can be implemented through the conditions of draft approval to be established by the Commissioner of Planning and Development and the City Subdivision Agreement.

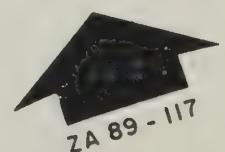
CMD/jd
CITYREP.1

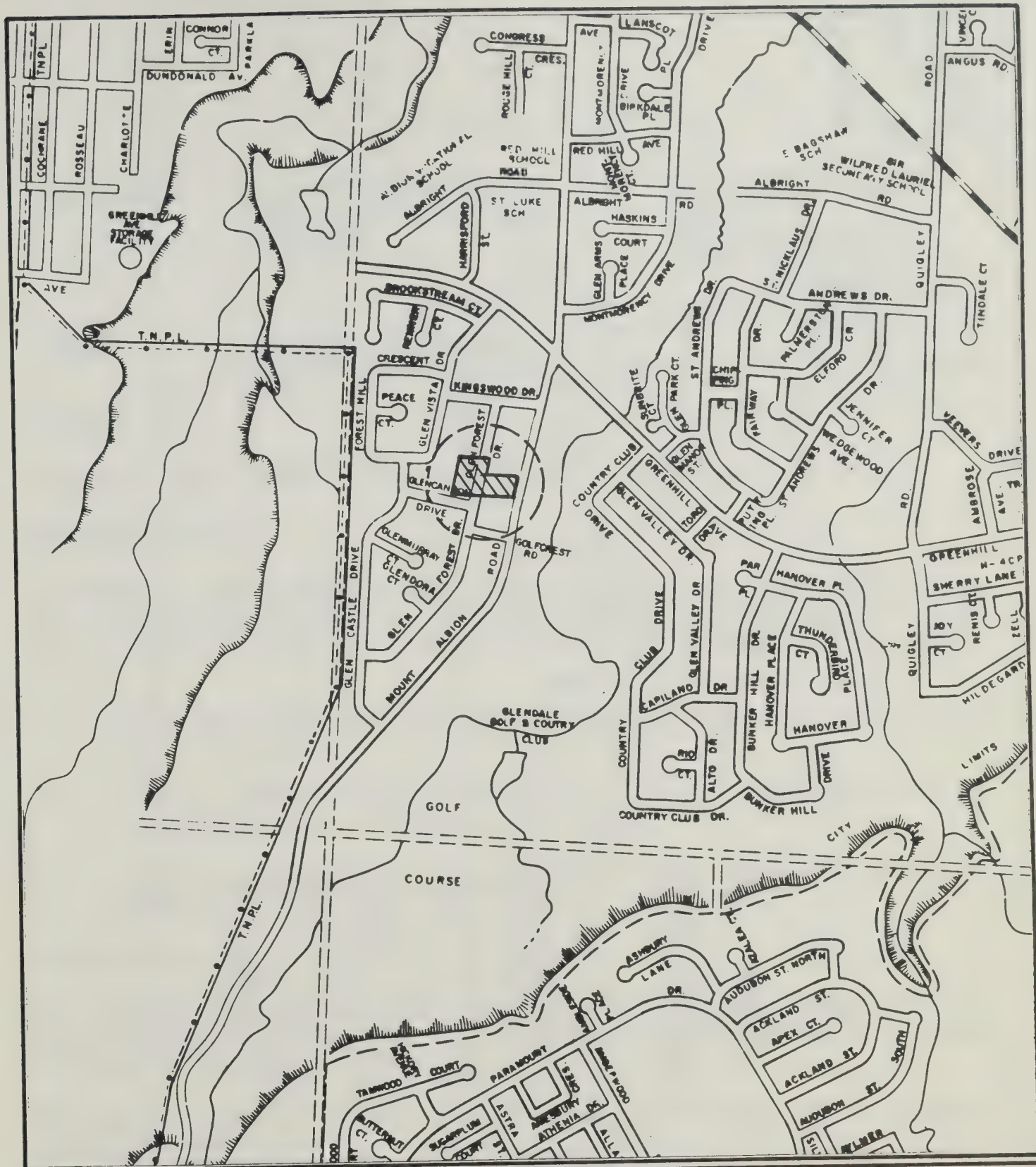


LEGEND

PROPOSED CHANGE IN ZONING FROM "AA" (AGRICULTURAL) DISTRICT TO:

- BLOCK 1  "R-2" (URBAN PROTECTED RESIDENTIAL - ONE AND TWO FAMILY DWELLINGS, ETC.) DISTRICT.
- BLOCKS 2 & 3  "C" (URBAN PROTECTED RESIDENTIAL, ETC.) DISTRICT.





Location Plan For

PEACE MANOR

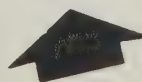
Regional Municipality of Hamilton-Wentworth
Planning and Development Department

Legend



PROPOSED SUBDIVISION

North



Scale

1" = 1000'

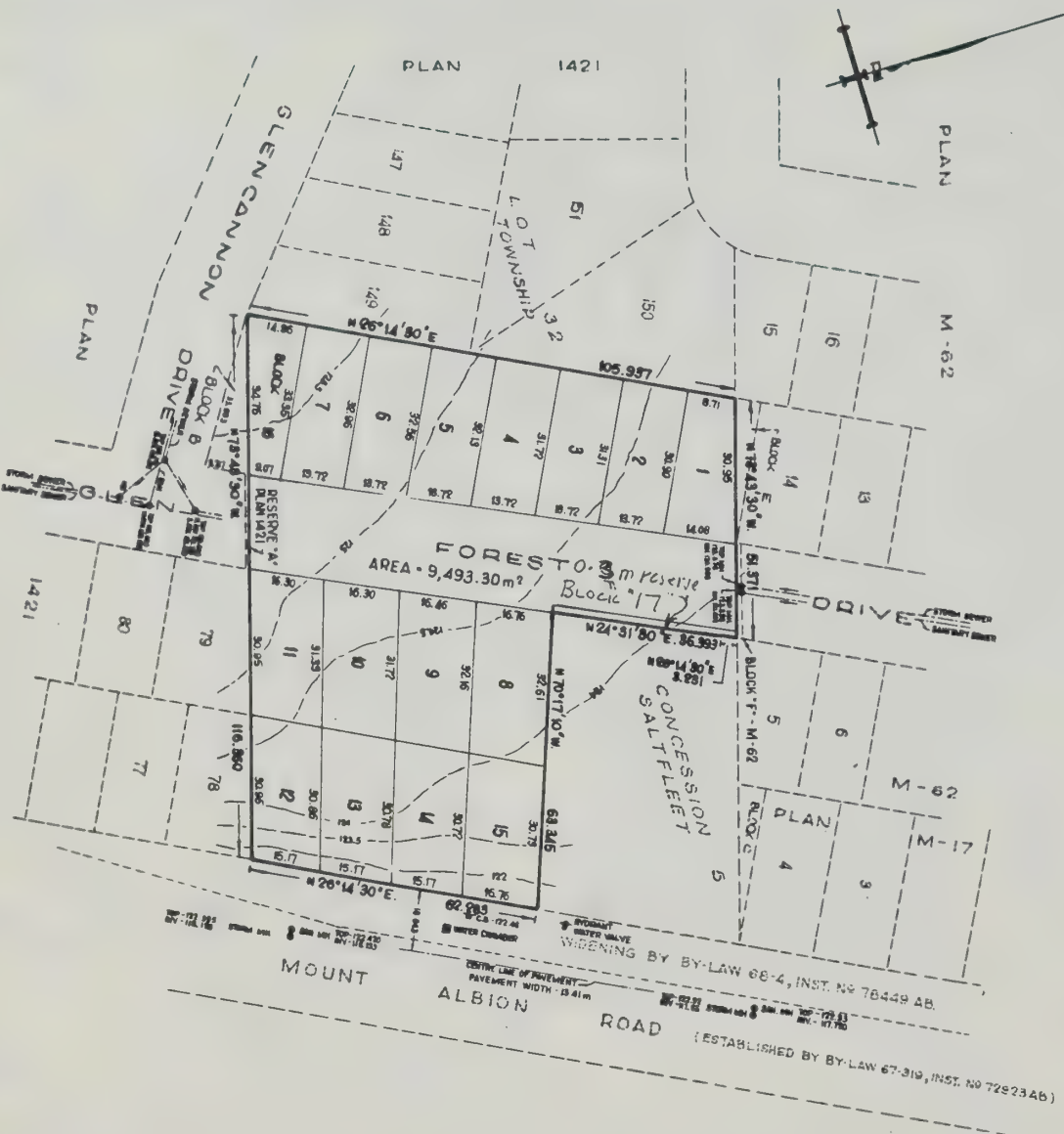
Date

NOV. 24, 1989

Reference File No.

25T-89039

Drawing No.



DRAFT PLAN OF SUBDIVISION OF
Heath Manor
 BEING
 PART OF LOT 32 - CONCESSION 5
 IN THE GEOGRAPHIC
 TOWNSHIP OF SALT PLEET
 IN THE
 CITY OF HAMILTON
 REGIONAL MUNICIPALITY OF HAMILTON - WESTWORTH
 SCALE 1:600

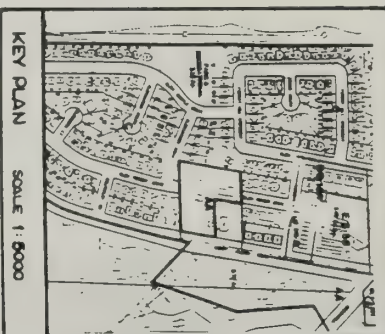
METRIC
 DISTANCES SHOWN ON THIS PLAN ARE IN METRES
 AND CAN BE CONVERTED TO FEET BY DIVIDING BY
 0.3048

OWNER'S CERTIFICATE
 I HEREBY AUTHORIZE MACKAY, MACKAY
 AND PETERS, ONTARIO LAND SURVEYORS
 TO SUBMIT THIS PLAN FOR APPROVAL.

DATE: 30, 1983 *Henry A. Peters*

SURVEYOR'S CERTIFICATE
 I HEREBY CERTIFY THAT THE BOUNDARIES
 OF THE LANDS TO BE SUBDIVIDED AND OTHER
 RELATIONSHIP TO ADJACENT LANDS ARE
 ACCURATELY AND CORRECTLY SHOWN

DATE: 30, 1983 *David Peters*
 ONTARIO LAND SURVEYOR



SCHEDULE RE:
 THE PLANNING ACT 1983 (30.2)

- A) SHOWN
- B) SHOWN
- C) SHOWN
- D) RESIDENTIAL
- E) RESIDENTIAL & RECREATIONAL
- F) SHOWN
- G) SHOWN
- H) MUNICIPAL WATER
- I) SAVOY LOAM
- J) SHOWN
- K) RAIL SERVICES
- L) RAIL SERVICES
- M) BLOCK IS TO BE DEVELOPED WITH ADJACENT LANDS.

MACKAY, MACKAY & PETERS LIMITED
 ONTARIO LAND SURVEYORS
 (ESTABLISHED 1906)

SUITE 204 UNION GARD BUILDING
 200 DUNDAS STREET WEST
 TORONTO, ONTARIO M5G 1C1
 TELEPHONE: (416) 593-7471
 TELEFAX: (416) 593-0722

FOR ACTION

13.

REPORT TO:

SUSAN REEDER, SECRETARY
PLANNING AND DEVELOPMENT
COMMITTEE

DATE: February 12, 1990

COMM FILE:

DEPT FILE: ZA-89-118

Barnstown

Neighbourhood

FROM:

J.D. THOMS, COMMISSIONER
PLANNING AND DEVELOPMENT DEPARTMENT

SUBJECT:

Request for a change in zoning - property located at No. 335 Rymal Road East.

RECOMMENDATION:

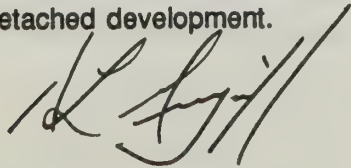
That approval be given to Zoning Application 89-118, John Belfontaine, owner, for a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District, for property located at No. 335 Rymal Road East, as shown on the attached map marked as APPENDIX "A", on the following basis:

- i) That the subject lands be rezoned from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District;
- ii) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-18D for presentation to City Council;
- iii) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

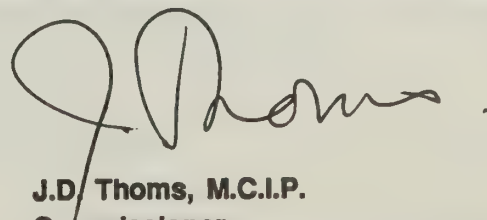
EXPLANATORY NOTE

The purpose of the By-law is to establish a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District for property located at No. 335 Rymal Road East, as shown on the attached map marked as APPENDIX "A".

The effect of the By-law is to permit development of the rear part of the subject lands for single-family detached development.



A.L. Georgieff, M.C.I.P.
Director of Local Planning



J.D. Thoms, M.C.I.P.
Commissioner
Planning and Development Department

FINANCIAL IMPLICATIONS

N/A

BACKGROUND

The purpose of the application is to permit the entire property located at No. 335 Rymal Road East to be rezoned to permit single-family residential use. The applicant has advised that it is his intention to apply to the Regional Land Division Committee to sever the rear 32.6 m (107.0 ft.) portion of lands to permit their development with adjoining lands to the north for single-family residential purposes.

APPLICANT

John Bellfontaine, owner.

LOT SIZE AND AREA

- 22.86 m (75.0 ft.) of lot frontage on Rymal Road East;
- 76.2 m (250.0 ft.) of lot depth; and,
- 1,741.8 m² (18,750 sq.ft.) of lot area.

LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	single-family dwelling	"AA" (Agricultural) District
<u>Surrounding Lands</u>		
to the north	vacant	"C" (Urban Protected Residential, etc.) District
to the south	park and city works yard	"AA" (Agricultural) District
to the east	single-family dwellings	"AA" (Agricultural) District and "C" (Urban Protected Residential, etc.) District
to the west	single-family dwellings	"AA" (Agricultural) District and "B" (Suburban Agriculture and Residential) District Note: Change in zoning to "C" District pending

OFFICIAL PLAN

Designated "RESIDENTIAL" on Schedule "A" - Land Use Concept Plan of the Official Plan and subject to, among others, the following policies:

- "A.2.1.1 The primary uses permitted in the areas designated on Schedule "A" as RESIDENTIAL will be for dwellings. Various types of dwellings are included within this designation, while preference will be given to the locating of similar densities of development together.
- A.3.4.1 In accordance with the intent of the Regional Official Plan, consents to sever individual parcels of land within the City will generally be discouraged and limited in accordance with the following provisions:
- i) Severances to create new lots where adequate municipal sewer and water services are not available will be discouraged;
 - ii) Severances will be discouraged which do not comply with the Development and Servicing Extension policies of Subsection B.1 and the severance policies of the Regional Official Plan; and,
 - iii) Severances will be discouraged where such severance would make it difficult to assemble parcels of land which would permit planned development."

The proposal complies with the intent of the Official Plan.

NEIGHBOURHOOD PLAN

Designated for "SINGLE AND DOUBLE" residential development on the approved Barnstown Neighbourhood Plan, the proposal complies.

COMMENTS RECEIVED

- The Building Department, Traffic Department, and the Hamilton Region Conservation Authority have no comments or objections.
- The Hamilton-Wentworth Engineering Department has advised that:

"public watermains are available on both Rymal Road and Bastille Street. There are no sewers currently available on Rymal Road, however there are separate storm and sanitary sewers available on Bastille Street to service these lands.

The designated road allowance width of Rymal Road is 36.58 m (120 feet). In accordance with this designation, the applicant should be advised of a future road widening sufficient to establish the property line 18.29 m (60 feet) from the centreline of construction as shown on plan P-1944-38. The rear of these lands is to be developed with Plan 62M-633 to the north (Oakdale Estates - Phase 4). As a condition of severance approval we recommend that the small triangular piece of land for Bastille Street be dedicated to the City of Hamilton (see attached sketch) and that all outstanding servicing costs for the City and Region be paid."

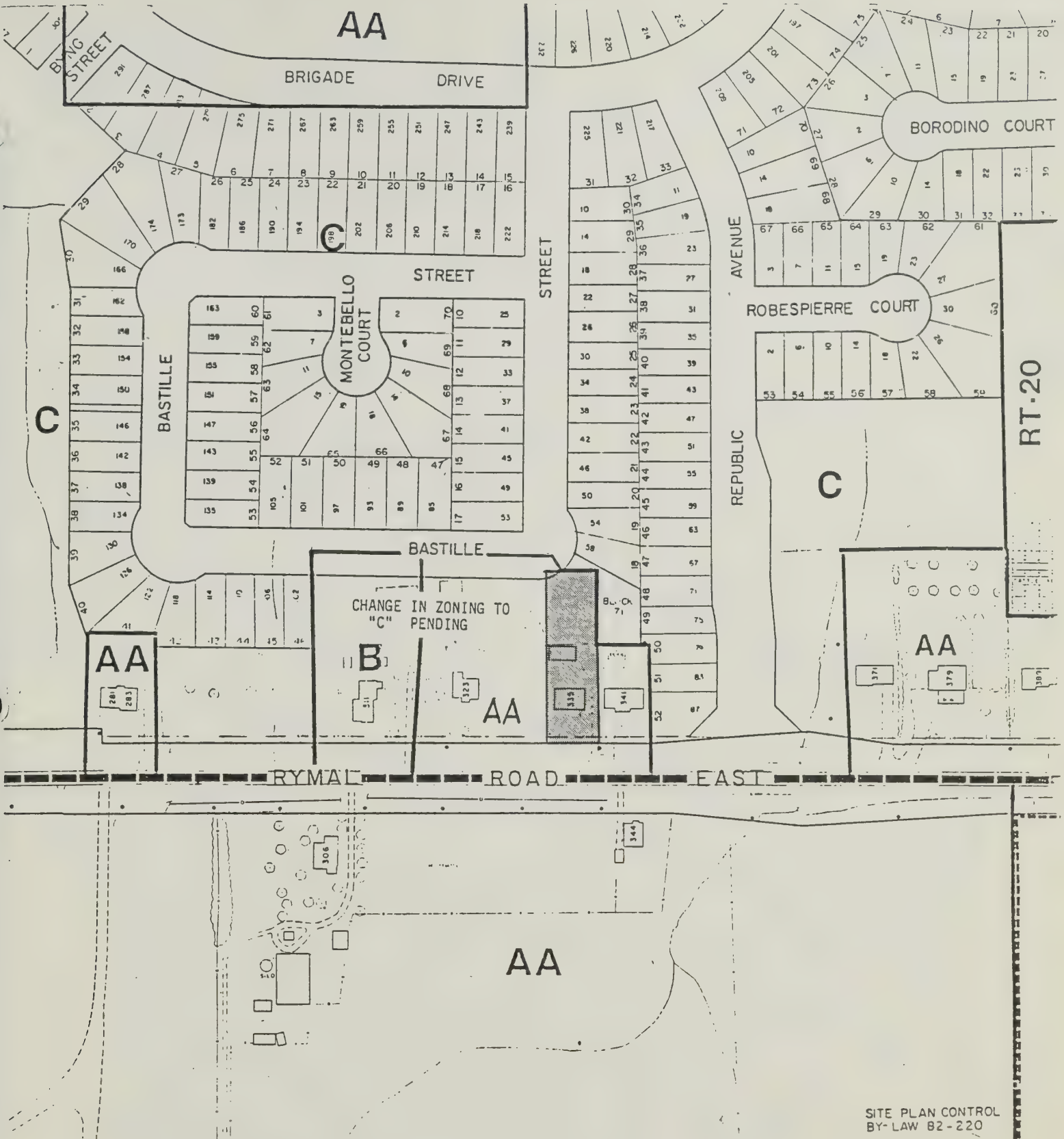
COMMENTS

1. The proposal complies with the intent of the Official Plan.
2. The proposal complies with the intent of the approved Barnstown Neighbourhood Plan.
3. The proposal has merit and can be supported for the following reasons:
 - i) it implements the intent of the Official Plan and Neighbourhood Plan;
 - ii) it would be compatible with existing and future development contemplated in this area;
 - iii) the requested change in zoning is appropriate for the proposed development.
4. The severance of the rear portion of the subject property would involve a land severance application(s) through the Regional Land Division Committee. The concerns of the Regional Engineering Department with regard to road widenings and outstanding costs for servicing will be addressed at the land severance stage of development.

CONCLUSION

On the basis of the foregoing, the application can be supported.

GAW/ma/s
WPZA89118

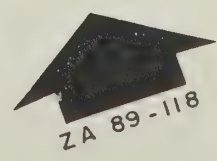


SITE PLAN CONTROL
BY-LAW 82-220

LEGEND



SITE OF THE APPLICATION



ZA-89-118

2	308927 A.B.	431.42 m ²	PART OF CONCESSION TOWNSHIP
3		431.42 m ²	
4	308927 A.B. & 54229 A.B.	431.42 m ²	
5	54229 A.B.	431.42 m ²	PART OF CONCESSION TOWNSHIP
6		431.42 m ²	
7		419.78 m ²	
8		411.93 m ²	
9		11.65 m ²	
10		38.66 m ²	PART LOT TOWNSHIP

BASTILLE STREET

N 71°44'00" W
REFERENCE BEARING
105.667

R.P. 62M-633
BLOCK 74
0.30 MIDE RESERVE

SEE DETAIL "A"

Road Widening Required

PART 1

PART 2

PART 3

PART 4

PART 5

PART 6

PART 7

PART 8

PART 10

PART 9

LOT 12, CON. 8
TOWNSHIP OF BARTON

SUBJECT LANDS

LOT 11, CON. 8

RYMAL ROAD EAST
(FORMERLY "THE KING'S HIGHWAY")

ZA-89-118

REMAINDER OF
INST. # 308927 AB

REMAINDER OF
INST. # 54229 AB

PLAN 761--MISC.

APPROX LOCATION OF DIVISION LINE
BETWEEN TWP. LOTS 11 & 12

D.H.O.-C.U.
(18)



URBEX MANAGEMENT LIMITED
158 HESTER STREET • HAMILTON, ONTARIO, CANADA L9A 2N
(416) 383-3328

13a

CONSTRUCTION
ENGINEERING
PROPERTY MANAGEMENT

FEB 14 1990

February 14, 1990

Planning and Development Committee
Planning and Development Department
71 Main Street West
HAMILTON, Ontario
L8N 3T4

ATTN.: S. K. REEDER
SECRETARY, PLANNING AND DEVELOPMENT COMMITTEE

RE: ZA-89-118
335 RYMAL ROAD EAST
HAMILTON, ONTARIO

Dear S.K. Reeder:

We are the agents for 428680 Ontario Limited who are the owners and developers of the land immediately to the north-east and north of 335 Rymal Road East.

On behalf of our client, we wish to state they have no objections to the above change in zoning, subject to the following condition: that the rear portion of 335 Rymal Road East be developed in conjunction with BLOCK 71 of Plan 62M-633 (Oakdale Estates, Phase 4). This block of land, which abuts the subject property, was set aside for this purpose.

Should you have any questions or comments regarding this matter, please contact the undersigned.

Yours truly,

J. Jackson, P. Eng.

/ic

encl.

FOR ACTION

14.

REPORT TO: SUSAN REEDER, SECRETARY
PLANNING AND DEVELOPMENT
COMMITTEE

DATE: February 14,
COMM. FILE:
DEPT. FILE: ZA-89-121
Crown Point West
Neighbourhood

FROM: J.D. THOMS, COMMISSIONER
PLANNING AND DEVELOPMENT DEPARTMENT

SUBJECT

Request for a further modification in zoning - No. 1035 Main Street East.

RECOMMENDATION

That approval be given to amended Zoning Application 89-121, Gerald and Alice Mulligan, owners, and Ann Kowalchuk, lessee, for a further modification to the established "E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations, to permit three dwelling units and a gift shop, for property located at No. 1035 Main Street East, as shown on the attached map marked as APPENDIX "A", on the following basis:

- i) That the "E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations as contained in Section 11A of Zoning By-law No. 6593, as amended by By-law No. 81-187, applicable to the subject lands, be modified to include the following variances as special provisions:
 - a) That notwithstanding Section 11A(1)(iii) of Zoning By-law No. 6593, a gift shop shall also be permitted;
 - b) That notwithstanding Section 19(iii) of Zoning By-law No. 6593, the dwelling unit occupying the first floor of the existing building shall have a minimum floor area of 45 m²;
 - c) That notwithstanding Section 18A(7) of Zoning By-law No. 6593, each required parking space shall have a minimum width of 2.6 m (8.5 feet);
- ii) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-746a, and the subject lands on Zoning District Maps E-44 and E-45 be notated S-746a;
- iii) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Maps E-44 and E-45 for presentation to City Council; and,
- iv) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

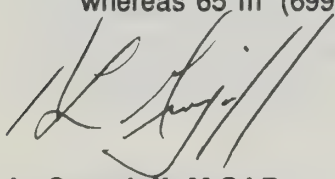
EXPLANATORY NOTE

The purpose of the proposed By-law is to provide for a further modification to the "E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations for property located at No. 1035 Main Street East.

The effect of the By-law is to permit a gift shop and three dwelling units within the existing building.

In addition, the By-law provides the following as special provisions:

- that each of the required four parking spaces shall have a minimum width of 2.6 m (8.5 feet), whereas the By-law requires 2.7 m (8.85 feet); and
- the first floor dwelling unit shall have a minimum floor area of 45 m² (488 square feet), whereas 65 m² (699 square feet) is required.



A.L. Georgieff, M.C.I.P.
Director of Local Planning



J.D. Thoms, M.C.I.P.
Commissioner
Planning and Development Department

FINANCIAL IMPLICATIONS

N/A

BACKGROUND

● Proposal

It is the lessee's intention to operate a gift shop within the first floor unit of the existing multiple dwelling. In addition, the owners are intending to legalize the third dwelling unit as only two dwelling units are currently permitted. The owners have advised that the three dwelling units will have the following floor areas: 700 square feet (basement unit), 488 square feet (first floor unit), and 850 square feet (second floor unit). The gift shop will occupy 312 square feet of the first floor unit.

● By-law No. 81-187

At its meeting held on June 23, 1981, City Council adopted By-law No. 81-187 which, among other things, rezoned the subject property from "H" (Community Shopping and Commercial, etc.) District to "E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District, modified. According to the Building Department's records, this By-law permitted the previously established uses (i.e. two dwelling units and an office).

APPLICANTS

Gerald and Alice Mulligan, owners, and Ann Kowalchuk, lessee.

LOT SIZE AND AREA

- 10.7 m (35 feet) of lot frontage on Main Street East;
- 33.5 m (110 feet) of lot depth; and,
- 357.7 m² (3,850 square feet) of lot area.

LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	four unit multiple dwelling	"E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District, modified
<u>Surrounding Lands</u>		
to the north	one and two family dwellings	"D" (One and Two Family Dwellings, Townhouses, etc.) District
to the south	Gage Park	"D" (One and Two Family Dwellings, Townhouses, etc.) District
to the west and east	mixed commercial and two-family dwellings	"E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District, modified

OFFICIAL PLAN

Designated "COMMERCIAL" on Schedule "A" - Land Use Concept, the following policy should be noted:

- "A.2.2.1 i) c) in the case of a Residential use ancillary to a COMMERCIAL USE, sufficient amenity space will be provided exclusively for the Residential component and be physically separated from the COMMERCIAL component and associated customer parking areas;"

The proposal complies with the intent of the Official Plan.

NEIGHBOURHOOD PLAN

Designated "COMMERCIAL CONVERSION AND LOW DENSITY APARTMENTS" on the approved Crown Point West Neighbourhood Plan, the proposal complies.

COMMENTS RECEIVED

- The following agencies have no comment or objection:
 - Traffic Department; and,
 - Hamilton Region Conservation Authority.
- The Building Department has advised that:
 - "1. The present four-unit multiple dwelling is not a permitted use.
 2. The proposed gift shop is considered retail sales, which is not a permitted use.
 3. Our records indicate two dwelling units with an office use which was approved under the former "H" zoning.
 4. To permit three dwelling units, it would be subject to the conversion requirements of Section 19 of By-law 6593.
 5. This Department recommends that the provision of Section 11A(1)(iii) and (iv) of By-law 6593 should be considered applicable to the proposed use of a retail gift shop.
 6. The lands are subject to the floor area ratio and landscaped area requirements."
- The Hamilton-Wentworth Engineering Department has advised that:

"Please be advised that public watermains as well as combined sewers are available to service the subject lands.

There are no further road allowance widenings required at this time.

In the absence of any detailed plans being submitted, we advise at this time that any works within the Main Street road allowance and the public assumed alley must conform to the respective Streets By-laws.

Comments from the Traffic Department should be considered with respect to driveway width, access, parking etc."

COMMENTS

1. The proposal complies with the intent of the Official Plan.
2. The proposal complies with the intent of the approved Crown Point East Neighbourhood Plan.
3. The proposal can be supported for the following reasons:
 - i) The applicant can meet the minimum unit size required under Section 19 of the zoning By-law for two of the three units, as well as provide the required number of parking spaces (four). The first floor will be a combined gift shop and dwelling unit, both of which will have a combined floor area of 800 square feet. Conversion of the building is therefore an appropriate use of the building. It should be noted that the "E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations permit all or part of the first floor of the existing building to be converted for commercial purposes. The use of the first floor of the building as a combined gift shop and dwelling unit is permitted under the "E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations;
 - ii) it implements the intent of the commercial conversion provisions of Section 11A(1)(iii) In this regard, a gift shop is no less feasible than other uses permitted as-of-right in the "E-1" District (e.g. artists studio, hairdressing establishment, or a beauty parlour); and,
 - iii) the proposal is compatible with the existing land use to the east and west, both of which are mixed commercial and residential uses.
4. The Building Department has advised that the following variances are required:
 - Parking

The required number of parking spaces for three dwelling units is four. Each parking space, under the regulations of Zoning By-law No. 6593, requires a minimum width of 2.7 m. The applicants are able to provide four parking spaces with a width of 2.69 m each. Each required parking space will be deficient in width by approximately 1.3 inches. The variance can be supported as it is considered minor in nature.
 - Unit Size

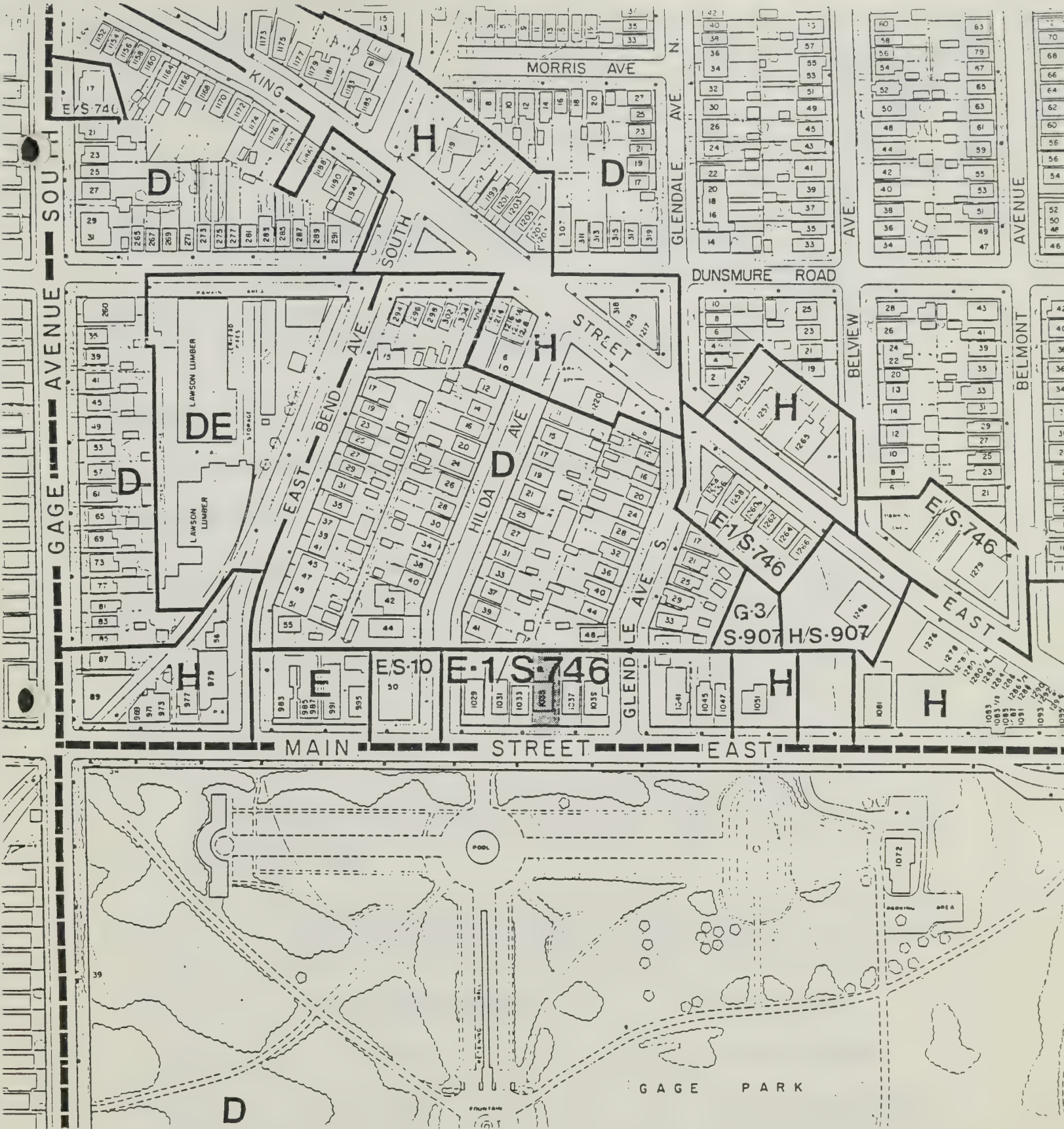
The first floor will be a combined gift shop and dwelling unit. The gift shop will occupy 312 square feet of the first floor and the dwelling unit will occupy the remaining 488 square feet. The occupant of the first floor unit will be running the gift shop. Should the gift shop cease operation, the first floor unit could meet the floor

area requirement of Section 19(iii). It should be noted that the other two units meet the required unit size established in Section 19(iii). Therefore, a variance can be supported.

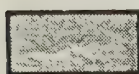
CONCLUSION

On the basis of the foregoing, the application can be supported.

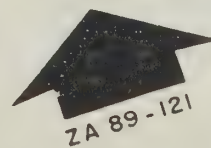
MLT/ma
WPZA89121



LEGEND



SITE OF THE APPLICATION



ZA 89-121

FOR ACTION

15.

REPORT TO: SUSAN REEDER, SECRETARY
PLANNING AND DEVELOPMENT
COMMITTEE

DATE: February 14, 1990
COMM. FILE:
DEPT. FILE: ZA-89-127
Hannon North
Neighbourhood

FROM: J.D. THOMS, COMMISSIONER
PLANNING AND DEVELOPMENT DEPARTMENT

SUBJECT

Request for a modification in zoning for No. 1519 Rymal Road East.

RECOMMENDATION

That approval be given to Zoning Application 89-127, Ferrell Builders Supply, owner, for a modification to the "M-12" (Prestige Industrial) District regulations for Block "1", a modification to the "M-14" (Prestige Industrial) District regulations for Block "2", a further modification to the "M-12" (Prestige Industrial) District regulations for Block "3", and a further modification to the "M-14" (Prestige Industrial) District regulations for Block "4", to permit outside storage of materials in conjunction with the building supply store at Nos. 1543 and 1549 Rymal Road East (Blocks "3" and "4"), for property located at No. 1519, 1543 and 1549 Rymal Road East, shown as Blocks "1", "2", "3" and "4" on the attached map marked as APPENDIX "A", on the following basis:

- i) That the "M-12" (Prestige Industrial) District and "M-14" (Prestige Industrial) District regulations, as contained in Sections 17D and 17F of Zoning By-law No. 6593 respectively, applicable to Blocks "1", "2", "3" and "4", be modified to include the following variances as special requirements:
 - a) That notwithstanding Table 4 as identified in Section 17D(1)(b) and Section 17F(1)(b) of Zoning By-law No. 6593, the following uses shall be permitted to have an ancillary retail sales area not exceeding 25% of the gross floor area of the building:

SIC Identification Number

Commercial Use

5621

Hardware, Wholesale

5622

Plumbing, Heating and Air
Conditioning, Equipment and
Supplies Wholesale

5631

Lumber, Plywood and Millwork,
Wholesale

5632

Paint, Glass and Wallpaper,
Wholesale

5639

Other Building Materials,
Wholesale

- b) That notwithstanding Section 17D(2)(e)1.(i) of Zoning By-law No. 6593, there shall be provided and maintained a landscaped area in the required front yard having a depth of not less than 12.0 m abutting the street line, except for any area used for access driveways.
- c) That notwithstanding Sections 17D(2)(h)(4) and 17F(2)(h)(4) of Zoning By-law No. 6593, the total area used for storage outside of a building or structure shall not exceed 62% of the lot area subject to the following requirements:
 - i) That the outside storage area shall be used exclusively for building supplies such as, but not limited to, sand, gravel, concrete block, bricks, lumber, and equipment;
 - ii) That no stockpile of building supplies located in the outside storage area shall exceed a height of 4 metres;
 - iii) That Section 18(3)(vi) shall not apply to the outside storage area.
- d) That notwithstanding Sections 17D(2)(h)(2) and 17F(2)(h)(2) of Zoning By-law 6593 every side yard or rear yard that is used for outside storage of any material or any equipment shall be screened from external view by the erection and maintenance of a chain link fence not less than 1.5 m in height and not more than 3.0 m in height and a landscaped area with a planting strip having a minimum width of 1.2 m along the side and rear lot lines adjacent to the outside storage area shall be required;
- e) That notwithstanding Section 17D(2)(h)(1) and 17D(2)(h)(2) of Zoning By-law No. 6593, outside storage shall be permitted in the non-required front yard on Block "1" only, provided that it is screened from external view by a chain link fence not less than 1.5 m in height and not more than 3.0 m in height.
- f) That Sections 17D(2)(i) and 17F(2)(i) of Zoning By-law No. 6593 shall not apply.
- ii) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S- , and that the subject lands on Zoning District Maps E-69D and E-69E be notated S- ;
- iii) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Maps E-69D and E-69E for presentation to City Council;

- iv) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area; and,
- v) That By-law No. 86-59 be repealed in its entirety.

EXPLANATORY NOTE

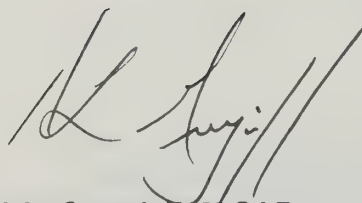
The purpose of the proposed By-law is to provide for a modification to the "M-12" (Prestige Industrial) District regulations for Block "1", a modification to the "M-14" (Prestige Industrial) District regulations for Block "2", a further modification to the "M-12" (Prestige Industrial) District regulations for Block "3", and a further modification to the "M-14" (Prestige Industrial) District regulations for Block "4", for property located at Nos. 1519, 1543, and 1549 Rymal Road East, as shown on the attached key map.

The effect of the By-law is to permit additional outside storage of materials (Blocks "1" and "2") in conjunction with the adjoining building supply store (Blocks "3" and "4"). It also allows for not more than 62% of the lot area to be used for outside storage of materials. Presently, outside storage of materials comprising not more than 5% of the lot area for Blocks "1" and "2", and not more than 55% of the lot area for Blocks "3" and "4" is permitted. Further, the By-law permits the retail sale of lumber and building materials in an area not exceeding 25% of the gross floor area of the building.

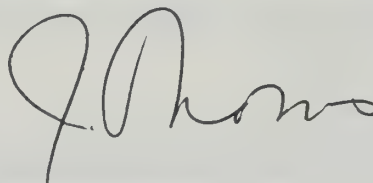
In addition, the By-law provides for the following special requirements:

- a) The outside storage area shall be exclusively used for building supplies, such as sand, gravel, concrete blocks, bricks, lumber, and equipment.
- b) No stockpile of building supplies shall be higher than 4 m, whereas there is presently no limitation on the maximum height.
- c) The outside storage area may be located in the required side and rear yards instead of having a minimum setback from the side and rear lot lines.
- d) The outside storage area shall be screened from external view by providing a 1.5 m to 3.0 m high chain link fence and a 1.2 m wide landscaped area with a planting strip along the side and rear lot lines.
- e) The outside storage area may be located in the front yard on Block "1" only. A minimum 12.0 m landscaped area abutting Rymal Road is required, and a chain link fence between 1.5 m to 3.0 m in height is also required.

- f) Outside storage and the erection of an industrial building shall be permitted within 90 m of land used solely for residential purposes.



A.L. Georleff, M.C.I.P.
Director of Local Planning



J.D. Thoms, M.C.I.P.
Commissioner
Planning and Development Department

FINANCIAL IMPLICATIONS

N/A

BACKGROUND

- **Proposal**

It is the applicant's intention to use the subject lands described as Blocks "1" and "2" for additional outside storage of building materials such as sand, gravel, concrete blocks, bricks, lumber, and equipment. Blocks "3" and "4" are currently used as a retail/wholesale building materials supply business, with outside storage comprising approximately 55% of the total lot area.

- **Zoning Application 85-78**

At its meeting held on October 30, 1985, the Planning and Development Committee approved Zoning Application 85-78 for a modification to the established "M-12" (Prestige Industrial) District and "M-14" (Prestige Industrial) District regulations for property located at Nos. 1543 and 1549 Rymal Road East. The purpose of the modification was to allow additional outside storage of building materials in conjunction with a proposed builders' supply store/warehouse.

- **Development Agreement 86-03**

On June 13, 1986 a development agreement was signed between the City and the applicant (Ferrell Builders Supply) for property located at Nos. 1543 and 1549 Rymal Road East.

APPLICANT

Ferrell Builders Supply, owner.

LOT SIZE AND AREA

- 76.97 m (252.53 feet) of lot frontage on Rymal Road East;
- 227.61 m (746.75 feet) of lot depth; and,
- 1.75 ha (4.33 acres) of lot area.

LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	builders supply store, warehouse, outside storage, and vacant land	"M-12" (Prestige Industrial) District and "M-14" (Prestige Industrial) District, modified; "M-12" (Prestige Industrial) District and "M-14" (Prestige Industrial) District
<u>Surrounding Lands</u>		
to the north	vacant	"M-14" (Prestige Industrial) District
to the south	vacant	"M-12" (Prestige Industrial) District
to the west	single-family dwelling	"M-12" (Prestige Industrial) District and "M-14" (Prestige Industrial) District
to the east	single-family dwelling	"M-12" (Prestige Industrial) District and "M-14" (Prestige Industrial) District

OFFICIAL PLAN

Designated "INDUSTRIAL" on Schedule "A" - Land Use Concept, the following policy should be noted:

- "A.2.3.1 The primary uses permitted in the areas designated on Schedule 'A' as INDUSTRIAL will be for Industry. In this regard, Industry is defined as manufacturing, processing, repair and servicing. In addition to the primary permitted uses, the following uses may be permitted within INDUSTRIAL areas:
- ii) Business enterprises such as, but not limited to, banks, restaurants, garages, material suppliers, etc., which are intended to directly serve the Industries and their personnel; and,

- iii) Uses which have characteristics or functional requirements similar to Industries."

The proposal, therefore, does not conflict with the intent of the Official Plan.

NEIGHBOURHOOD PLAN

Designated "RESTRICTED INDUSTRIAL-COMMERCIAL" on the approved Mountain Industrial Area Plan, the proposal complies.

COMMENTS RECEIVED

- The Building Department has advised that:

"The adjacent property known as 1543-1549 Rymal Road East is permitted specific commercial uses and other special requirements under By-law 86-59. It is recommended that the same uses and special requirements shall be applicable to the additional lands under this application for which the existing business is to expand."

- The Traffic Department has advised that the application is "satisfactory".

- The Hamilton-Region Conservation Authority has advised that:

"The M-12 and M-14 zoning districts restrict exterior storage to 5% of the lot area. We understand that the subject proposal includes exterior storage over a much larger portion of the site. To ensure that this development does not conflict with the City's intent for the East Mountain Industrial Park, we recommend that the City review this proposal taking into account precedent and compatibility with the intended use of adjacent lands.

Based on the above, the planning staff of the Hamilton Region Conservation Authority has no objection to the approval of this proposal."

- The Hamilton-Wentworth Engineering Department has advised that:

"Please be advised that there are public watermains available to service the subject lands, however, there are no storm or sanitary sewers available at this time.

The designated road allowance width of Rymal Road is 36.58 m (120 feet). In accordance with this designation we recommend that as a condition of development approval that sufficient lands be dedicated to the Region to establish the property line 18.29 m (60 feet) from the centreline of construction as shown on plan Misc. 773. In the absence of any details shown, we advise that any works which may occur within the Rymal Road road allowance, as widened, must conform to the Region's Roads Use By-law. The Traffic Department should comment on access requirements and details of such should be resolved at the site plan stage.

We have reviewed this plan and application, the Mountain Industrial Park etc. and note that the extension of Anchor Road will be approximately 30 m from the west limit of the lands to be rezoned."

COMMENTS

1. The proposal does not conflict with the intent of the Official Plan.
2. The proposal complies with the intent of the approved Mountain Industrial Area Neighbourhood Plan.
3. The proposal to increase the outside storage area can be supported for the following reasons:
 - i) the outside storage will be screened by a chain link fence and a landscaped planting strip which will minimize the impact on the adjacent properties. The stored materials will not be highly visible from Rymal Road East because of the required screening and the maximum permitted height of 4 m for stored materials; and,
 - ii) the subject lands are part of the floodplain of Red Hill Creek. Storage of materials on these lands is acceptable as the floodplain limits the use of the land, without extensive filling.
4. Considering that the proposal is for the expansion of a previously approved building supply business (see BACKGROUND - Zoning Application 85-78), it would be appropriate to apply the same variances and special regulations. In addition, the following variances and special provisions should be added:
 - i) Storage In Yards

Under the previously approved application a variance was given to permit storage in the required side and rear yards. In addition, the subject application proposes to utilize a portion of the westerly front yard (Block "1") for storage. Since the storage area would be located in the non-required front yard and is to be screened, the variance can be supported.
 - ii) Maximum Storage Area

The applicant is presently permitted to use a maximum of 55% of the lot area (i.e. Blocks "3" and "4" only) for outside storage. With the addition of Blocks "1" and "2" the total outside storage area will be 62% of the lot area.

iii) Landscape Strip

Section 17D(2)(e)1.(i) provides that a minimum of 6.0 m of the required 12.0 m front yard must be landscaped. However, since the applicant is proposing to utilize the non-required front yard on Block "1" for outside storage, it would be appropriate to require the entire front yard to be landscaped, except for any area used for an access driveway(s).

Furthermore, the proposed chain link fencing which is to be provided along the side and rear yards, should also be included in the front yard along the northern limit of the required front yard.

iv) Adjacent Residential Use

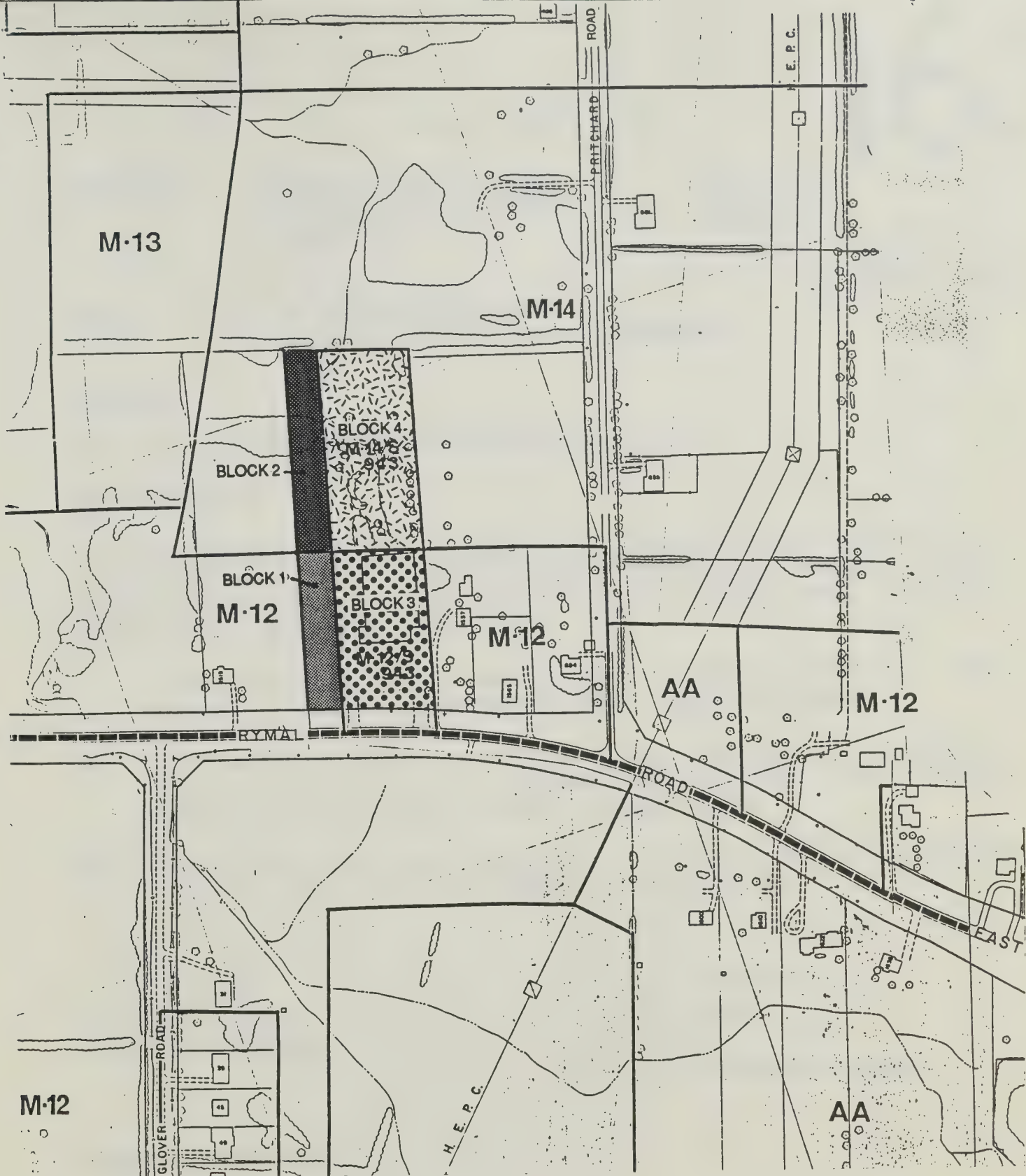
The "M-12" (Prestige Industrial) and "M-14" (Prestige Industrial) District regulations do not permit industrial buildings closer than 90 m to any lands used exclusively for residential purposes. The adjacent properties to the west and east are designated for industrial use in the approved Mountain Industrial Area Plan and are zoned "M-12" (Prestige Industrial) District and "M-14" (Prestige Industrial) District. This variance was previously provided and can be supported.

5. Development in the "M" Districts is subject to Site Plan Control. In this regard, the applicant will have to apply to amend the previously approved site plan (DA-86-03). Matters such as access, landscaping, road widenings, etc. will be reviewed at that time. Considering that the current site plan is registered on title, it would be appropriate to register the amendment on title as well.

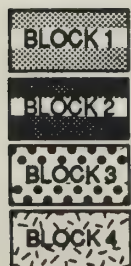
CONCLUSION

On the basis of the foregoing, the application can be supported.

MLT/ma
WPZA89127



Legend



Site of the Application



FOR ACTION

16.

REPORT TO:

SUSAN REEDER, SECRETARY
PLANNING AND DEVELOPMENT
COMMITTEE

DATE: Feb
COMM FILE:
DEPT FILE:

ZA-89-110
North End East
Neighbourhood

FROM:

J.D. THOMS, COMMISSIONER
PLANNING AND DEVELOPMENT DEPARTMENT

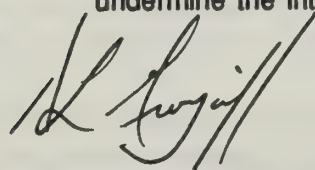
SUBJECT:

Request for a modification in zoning - No. 220 Burlington Street East.

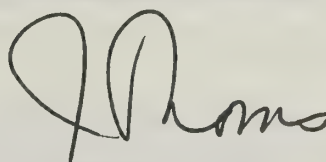
RECOMMENDATION

That Zoning Application 89-110, Dennis Gordon Le Blanc, owner, requesting a modification to the established "D" (Urban Protected Residential - One and Two-Family Dwellings, Townhouses, etc.) District for property located at No. 220 Burlington Street East, as shown on the attached map marked as APPENDIX "A", be DENIED for the following reasons:

- i) It conflicts with the intent of the Official Plan, in that it represents an intrusion of a 3 family dwelling into an area which is predominantly occupied by single-family dwellings;
- ii) it would result in the entire front yard being paved over to accommodate the 4 required parking spaces which would detract from the established residential streetscape of the area south of Burlington Street East, and which is prohibited by the Zoning By-law;
- iii) approval of the application would encourage other similar applications which, if approved, would undermine the intent of the By-law and change the character of the area.



A.L. Georgieff, M.C.I.P.
Director of Local Planning



J.D. Thoms, M.C.I.P.
Commissioner
Planning and Development Department

FINANCIAL IMPLICATIONS

N/A

BACKGROUND

- Current Application

The purpose of the application is to legalize the established 3 family dwelling. The applicant has advised that parking spaces (4) required for the 3 dwelling units are to be provided in the front yard which will be paved over.

- Committee of Adjustment

At its meeting held on September 3, 1987 the Committee of Adjustment considered and approved minor variance application A-87-223. The variances requested were to permit the erection of a two-family dwelling with the following variances:

- to permit a lot width of 15.02 m (49.3') instead of the required 18.0 m (59.06') minimum;
- to provide east and west side yards of a width of 0.91 m (3.0') instead of the required 1.2 m (3.94') minimum, and with a further maximum 0.45 m (1.5') eave projection.

Comments submitted by the Planning Department stated that:

"The lands in question were the subject of a land severance application to create two single-family residential lots. The severance was supported by the Department and was subsequently approved by the Regional Land Division Committee.

Since the construction of a semi-detached dwelling would not be out of character with existing development and new development would enhance the streetscape, an approval of the relief requested can be supported."

- Order to Comply

On September 15, 1989 the Building Department issued an Order To Comply with respect to the use of the building as a three-family dwelling. In this regard, the Building Permit issued on June 16, 1988 was for the erection of a brick veneer, 2 storey single-family dwelling as per approved plans.

APPLICANT

Dennis Gordon LeBlanc, owner.

LOT SIZE AND AREA

- 13.90 m (45.63 ft.) of lot frontage on Burlington Street East;
- 54.92 m (180.17 ft.) of lot depth; and,
- 763.75 m² (8,221.15 sq.ft.) of lot area.

LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	three-family dwelling	"D" (Urban Protected Residential - One and Two Family Dwellings, Townhouses, etc.) District
<u>Surrounding Lands</u>		
to the north	Amstel Brewery	"J" (Light and Limited Heavy Industrial, etc.) District
to the south, east and west	single-family dwellings	"D" (Urban Protected Residential - One & Two Family Dwellings Townhouses, etc.) District

OFFICIAL PLAN

Designated "Residential" on Schedule "A" - Land Use Concept Plan, and located within "Special Policy Area 3 on Schedule "B" - Special Policy Areas. The following policies, among others, would apply.

- "A.2.1.1 The primary uses permitted in the areas designated on Schedule "A" as RESIDENTIAL will be for dwellings. Various types of dwellings are included within this designation, while preference will be given to the locating of similar densities of development together.
- A.2.1.8 It is the intent of Council that a variety of housing styles, types and densities be available in all RESIDENTIAL areas of the City, and further, that proposals for new development or redevelopment will contribute to the desired mix of housing where practicable. In this regard, Council will be guided by the Housing Policies of Subsection C.7 and the Neighbourhood Plan Policies of Subsection D.2.

C.7.2 Varieties of RESIDENTIAL types will not be mixed indiscriminately, but will be arranged in a gradation so that higher-density developments will complement those of a lower density, with sufficient spacing to maintain privacy, amenity and value.

A.2.9.3.1 The future viability and health of the Central Policy Area will be largely dependent on the quality and suitability of Residential opportunities in close proximity to the downtown. Accordingly, the following policies to promote and protect housing within the areas shown as SPECIAL POLICY AREA 3 on Schedule "B" will apply in addition to all the Residential policies of Subsections A.2.1 and C.7, and Policy A.2.8.1(ii);

- v) it is intended that Residential Development or redevelopment will be at a scale, density and bulk compatible with the established character of the surrounding uses."

On the basis of the foregoing, the proposal conflicts with the intent of the Official Plan. However, approval of the application would not require an Official Plan amendment.

NEIGHBOURHOOD PLAN

Designated for "SINGLE AND DOUBLE" residential development on the approved North End East Neighbourhood Plan. The proposal does not conflict with the intent of the Plan.

COMMENTS RECEIVED

- The Building Department has advised that:

- "1. Use is not allowed.
- 2. Part 8 of the application states "Dwelling was constructed containing three self-contained units". This is not correct. See attached building permit for single-family dwelling.
- 3. The applicant also states in part 8 that "There are other multi-unit dwellings in the general area". This is also incorrect. According to our zoning maps, Amstel Brewery and Eastwood Park are across the street. There are no buildings greater than a two-family within 500' to the east, south and west, except 2 houses on Wood Street East 300' away which are three family dwellings. If approved, 4 parking and manoeuvring spaces are required, but not in the required front yard."

- The Traffic Department has advised that:

"In response to your letter of 1989 November 1, please be advised that we have reviewed the above-noted application and find it satisfactory, subject to the applicant providing the minimum four parking spaces required by the by-law."

- The Hamilton-Wentworth Engineering Department has advised that:

"public watermains as well as separate storm and sanitary sewers are available to service the subject lands.

There are no road allowance widenings anticipated on Burlington Street adjacent to these lands.

Any works which may occur within the Burlington Street road allowance must conform to the City of Hamilton Streets By-law."
- The Hamilton Region Conservation Authority has no comments or objections.
- To date, the Hamilton-Wentworth Regional Police Department has not submitted comments.

COMMENTS

1. The proposal conflicts with the intent of the Official Plan, in that it would contribute to the indiscriminate mix of housing types in this area comprised primarily of single-family and some two-family dwellings. However, approval of the application would not require an Official Plan Amendment.
2. The proposal does not conflict with the intent of the approved North End East Neighbourhood Plan.
3. The proposal to legalize the established 3 family dwelling cannot be supported for the following reasons:
 - it conflicts with the intent of the Official Plan;
 - it represents an intrusion of a 3 family dwelling into an area which is predominantly occupied by single-family dwellings;
 - it would result in the entire front yard being paved over to accommodate the 4 required parking spaces which would detract from the established residential streetscape of the area south of Burlington Street East, and which is prohibited by the Zoning By-law;
 - approval of the application would encourage other similar applications which, if approved, would undermine the intent of the By-law and change the character of the area.

CONCLUSION

On the basis of the foregoing, the application cannot be supported.



THE CORPORATION OF THE CITY OF HAMILTON

PLANNING AND DEVELOPMENT COMMITTEE

PUBLIC MEETING OF THE PLANNING AND DEVELOPMENT COMMITTEE

Application has been received from D.G. LE BLANC, owner, for a modification to the established "D" (Urban Protected Residential - One and Two Family Dwellings, Townhouses, etc.) District regulations for property at No. 220 Burlington Street East, as shown on the attached map.

The purpose of the proposed modification is to permit the use of the existing building as a three (3) family dwelling.

The application complies with the City of Hamilton Official Plan.

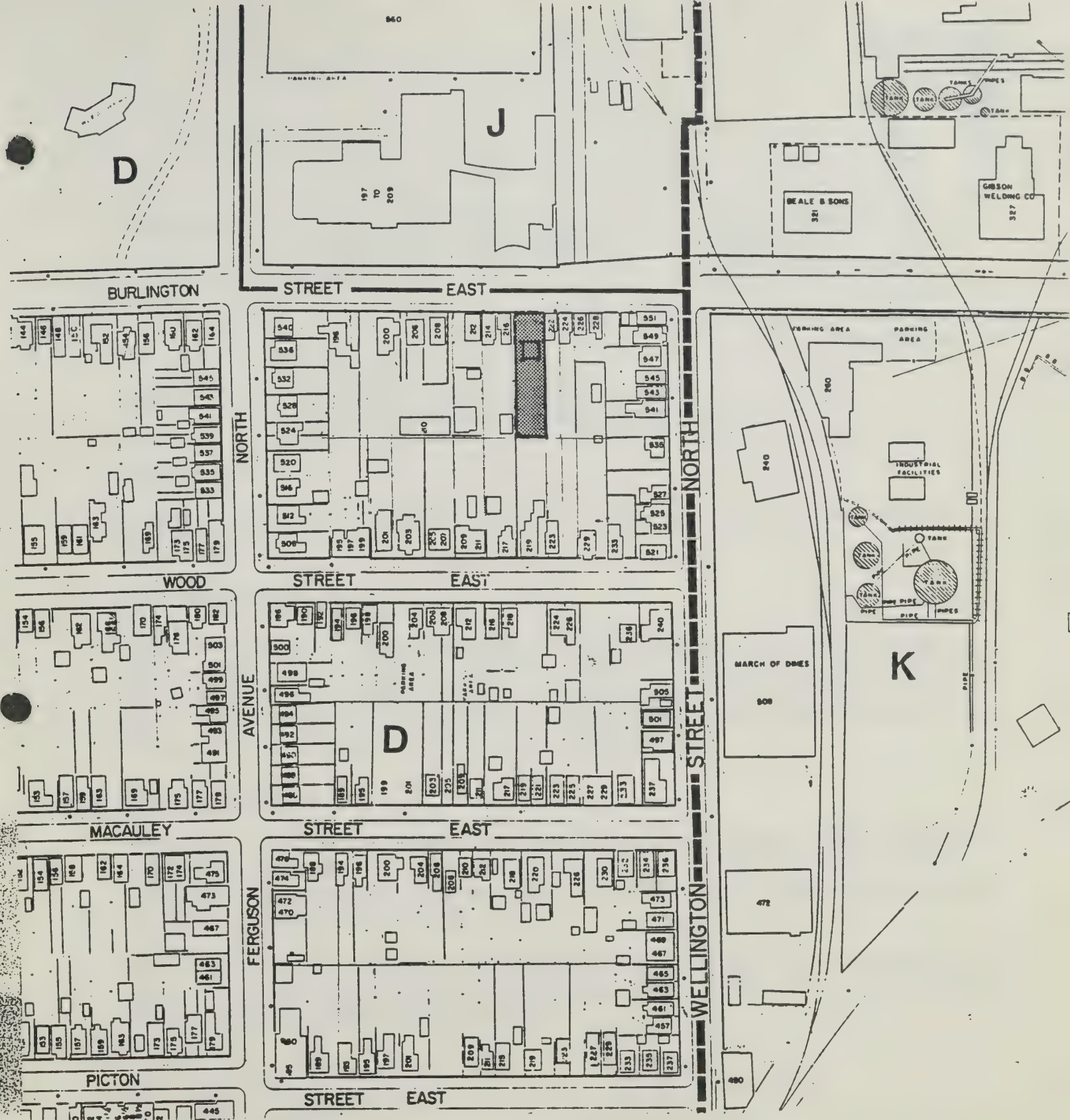
It is requested that you complete and return the enclosed business reply card indicating your support or opposition to the proposed change. You may also submit additional comments in writing.

The Planning and Development Committee will consider this matter at a Public Meeting to be held in the Council Chamber, City Hall on Wednesday February 21, 1990 at 10:45 a.m. and you are invited to attend at that time.

Secretary
Planning and Development Committee

For Inquiries, please call
Planning and Development Department
City Hall 546-4445

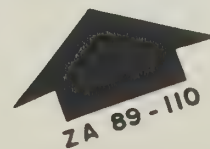
/ma
February 2, 1990



LEGEND



SITE OF THE APPLICATION



17.

FOR ACTION

REPORT TO:

SUSAN REEDER, SECRETARY
PLANNING AND DEVELOPMENT
COMMITTEE

DATE: February 12, 1990

COMM. FILE:

DEPT. FILE: ZA-90-01

(ZA-86-107)

Templemead

Neighbourhood

FROM:

J.D THOMS, COMMISSIONER
PLANNING AND DEVELOPMENT DEPARTMENT

SUBJECT:

Request for removal of the "H" (Holding) Provision for property located at Nos. 1489 to 1495 Upper Gage Avenue.

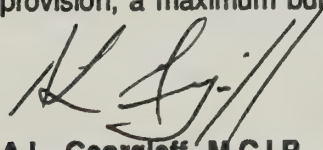
RECOMMENDATION

That approval be given to Zoning Application 90-01, 815488 Ontario Inc. (Nella Bradt), prospective owner, requesting the removal of the 'H' (Holding) symbol provision for property located at Nos. 1489 to 1495 Upper Gage Avenue, under Section 35(1) of the Planning Act, and the City Solicitor be directed to prepare a By-law for submission to City Council for property located at Nos. 1489 to 1495 Upper Gage Avenue, as shown on the attached map marked as APPENDIX "A".

EXPLANATORY NOTE

The purpose of this By-law is to remove the 'H' holding symbol, for the property located at Nos. 1489 to 1495 Upper Gage Avenue. The holding provision prohibits the development of the lands until the installation of all such municipal sewers as the City deems necessary. In this regard, municipal sewers are available to service the subject lands.

The effect of the By-law is to permit the development of the subject lands for a 32 unit apartment building in accordance with the "DE-3" (Multiple Dwellings) District. The By-law also allows, as a special provision, a maximum building height of four storeys.


A.L. Georgieff, M.C.I.P.
Director of Local Planning


J.D. Thoms, M.C.I.P.
Commissioner
Planning and Development Department

FINANCIAL IMPLICATIONS

N/A

BACKGROUND

o By-law 87-118

At its meeting held on April 28, 1987, City Council passed By-law 87-118 to establish a change in zoning from "AA" (Agricultural) District and "C" (Urban Protected Residential, etc.) District to "DE-3" (Multiple Dwellings) District, to permit the development of the subject lands for a 32 unit apartment building. An 'H' (Holding) symbol was placed on the lands pending the availability of full municipal services.

On August 16, 1988, the owner received Site Plan Approval.

The applicant wishes to proceed with the development but is required to remove the holding provision.

COMMENTS RECEIVED

The Hamilton-Wentworth Engineering Department has advised that:

"...public watermains and separate storm and sanitary sewers are available to service the subject lands."

COMMENTS

1. The proposal can be supported as municipal services are available to service the subject lands. Removal of the holding provision is, therefore, appropriate.
2. The owner received Site Plan Approval on August 16, 1988. The applicant is the prospective owner and will have to confirm the particulars of the development agreement to the satisfaction of the Director of Local Planning.

CONCLUSION

On the basis of the foregoing, the application can be supported.

MLT/ma

STONE CHURCH ROAD EAST

D/S-650
D/S-692a
EPIC PLACE
Lmr-1 S-401
H/S-751b
S-401
H/S-365
D/S-605
D/S-281
D/S-401
D/S-402
D/S-401
D/S-552
RT-20/S-281
D/S-281
RT-10/S-547
D/S-547
AA
D/S-403a
AA
C
L-c S-401
Lmr-1 S-401
D/S-625
RT-20/S-495
D/S-495
C
2A-90-01

ELMORE DRIVE
EASTER CT.
ELMBANK ST.
GAGE AVENUE
UPPER
LEGEND
SITE OF THE APPLICATION
APPENDIX A

LEGEND

SITE OF THE APPLICATION.

APPENDIX A

STONE CHURCH ROAD EAST

LEGEND

Site of the Application

Appendix A

Map Details:

- Streets:** Lmore Drive, Easter Ct., Elmbank St., Elmgrove Drive, Upper Gage Avenue, Rita Ave., Anna Capri Drive, Villa Ct., Arno Street.
- Plats and Lots:** D/S-650, D/S-692a, Lmr-1 S-401, H/S-751b, H/S-365, D/S-605, D/S-281, D/S-401, D/S-402, D/S-552, D/S-547, D/S-495, D/S-625, Lmr-1 S-401, L-c S-401, RT-20 S-281, RT-10 S-547, RT-20 S-495.
- Other Features:** Epic Place, Riety Place, Block D R, Bell Telephone Co, (EASEMENT).
- Scale:** 1" = 100'
- North Arrow:** Pointing towards the top right.

STONE CHURCH ROAD EAST

D/S-650
D/S-692a
EPIC PLACE
Lmr-1 S-401
H/S-751b
S-401
H/S-365
D/S-605
D/S-281
D/S-401
D/S-402
D/S-401
D/S-552
RT-20/S-281
D/S-281
RT-10/S-547
D/S-547
AA
D/S-403a
AA
C
L-c S-401
Lmr-1 S-401
D/S-625
RT-20/S-495
D/S-495
C
2A-90-01

ELMORE DRIVE
EASTER CT.
ELMBANK ST.
GAGE AVENUE
UPPER
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SITE OF THE APPLICATION
APPENDIX A

STONE CHURCH ROAD EAST

LEGEND

Site of the Application

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- Zoning Designations:** AA, C, H/S, Lmr-1, L-c, RT-10, RT-20, D/S.
- Other Features:** Epic Place, Riety Place, Bell Telephone Co, Block D R, Site Plan 2 Control By-Law 82-220.

STONE CHURCH ROAD EAST

LEGEND

Site of the Application

Appendix A

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- Streets:** Lmore Drive, Easter Ct., Elmbank St., Elmgrove Drive, Upper Gage Avenue, Rita Ave., Anna Capri Drive, Villa Ct., Arno Street.
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- Zoning Designations:** AA, C, H/S, Lmr-1, L-c, RT-10, RT-20, D/S.
- Other Features:** Epic Place, Riety Place, Bell Telephone Co, Block D R, Site Plan 2 Control By-Law 82-220.

STONE CHURCH ROAD EAST

LEGEND

Site of the Application

Appendix A

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- Zoning Designations:** AA, C, H/S, Lmr-1, L-c, RT-10, RT-20, D/S.
- Other Features:** Epic Place, Riety Place, Bell Telephone Co, Block D R, Site Plan 2 Control By-Law 82-220.

STONE CHURCH ROAD EAST

LEGEND

Site of the Application

Appendix A

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- Other Features:** Epic Place, Riety Place, Block D R, Bell Telephone Co, (EASEMENT).
- Scale:** 1" = 100'
- North Arrow:** Pointing towards the top right.

STONE CHURCH ROAD EAST

LEGEND

Site of the Application

Appendix A

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- Streets:** Lmore Drive, Easter Ct., Elmbank St., Elmgrove Drive, Upper Gage Avenue, Rita Ave., Anna Capri Drive, Villa Ct., Arno Street.
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- North Arrow:** Pointing towards the top right.

LEGEND

SITE OF THE APPLICATION.

APPENDIX A

LEGEND

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APPENDIX A

LEGEND

SITE OF THE APPLICATION.

APPENDIX A

Wednesday, 1990 January 3
9:00 o'clock a.m.
Room 233, City Hall

The Planning and Development Committee met.

There were present: Alderman J. Smith, Chairman
Alderman M. Kiss
Alderman D. Christopherson
Alderman D. Drury
Alderman W. McCulloch
Alderman D. Ross
Alderman H. Merling

Regrets: Alderman F. Lombardo, Vice-Chairman - Vacation
Mayor Robert M. Morrow - Civic Business

Also present: Mr. A. Georgieff, Director of Local Planning
Mr. M. Watson, Real Estate Division
Mr. J. Swartz, Regional Planning Department
Mr. K. Brenner, Regional Engineering Department
Mr. B. Allick, Building Department
Mr. P. Lampman, Deputy Building Commissioner
Ms. C. Lee-Morrison, Planning Department
Mr. R. Karl, Traffic Department
Mrs. C. Floroff, Planning Department
Mrs. J. Hickey-Evans, Planning Department
Mrs. N. Chapple, Planning Department
Mr. D. Godley, Planning Department
Ms. L. Lawrence, City Solicitor's Office
Mr. B. Chrystian, Public Works
Mrs. Susan K. Reeder, Secretary

The Committee was in receipt of the minutes of their meetings held Wednesday, 1989 December 15 and Wednesday, 1989 November 29 and approved these minutes.

The Committee was in receipt of an Information Report from the Director of Property dated 1989 December 21, respecting City Initiative - Plan of Subdivision - Wheten Court.

Alderman Merling had requested that this item be placed on the agenda in order that he could speak to it.

Mr. M. Watson of the Real Estate Department reported on this issue and spoke to the above-noted report of the Director of Property.

Discussion ensued on this matter by the Committee and it was agreed by Alderman Merling that he would raise this matter at the next meeting of Hamilton City Council.

The Committee was in receipt of a report from the Commissioner of Engineering dated 1989 December 18 respecting Cash Payment in Lieu of 5% Parkland Dedication for "Eleanor Heights Addition - Phase I".

The Committee approved the following:

That the City of Hamilton accept the sum of \$3,900. as cash payment in lieu of 5% parkland dedication in connection with "Eleanor Heights Addition - Phase One", Hamilton, this being the cash requirement under Section 50 of the Planning Act.

NOTE: These lands are located north of Rymal Road and east of Eleanor Avenue in the Eleanor Neighbourhood, Hamilton.

The Committee was in receipt of a report from the Director of Property dated 1989 December 14, respecting Release of Building Covenants - James Miles, 1154 Rymal Road East, Hamilton - Lot 4, Plan 62M-352, Hamilton Mountain Industrial Park No. 3.

Minutes - 1989 December 15
and 1989 November 29.

City Initiative - Plan
of Subdivision - Wheten
Court.

Cash payment in lieu
of Parkland - "Eleanor
Heights Addition -
Phase I".

Release of Building
Covenants - 1154 Rymal
Road East.

The Committee approved the following:

That the City Solicitor be authorized to prepare a Quit Claim Deed from the City of Hamilton to the present owner of 1154 Rymal Road East, Hamilton, Ontario, to release the property from the construction covenants to the City as contained in deed instrument #205947 LT, registered 1987 July 30.

NOTE: City Council on 1987 June 23, authorized the sale of Lot 4, Registered Plan 62M-352, to James Miles. The transaction was completed on 1987 July 30. On 1989 December 4, the proposed building was completed.

The Director of Property supports the request of the owner that the City of Hamilton release the construction covenants contained in deed number 205947 LT in order to clear the title.

All the covenants as noted above have been fulfilled.

By-law to remove
Part lot control
from Holland Avenue.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 11, respecting By-law to Remove Part-Lot Control from Holland Avenue and Parcel "B", the one foot reserve, R. P. No. 909.

The Committee approved the following:

- (a) That the City of Hamilton adopt a By-law to remove part-lot control from Holland Avenue and Parcel "B", Registered Plan No. 909.
- (b) That the City of Hamilton be directed to prepare the appropriate By-law for presentation to City Council.
- (c) That the Regional Municipality of Hamilton-Wentworth be requested to approve the By-law removing part-lot control on the above-noted parts of Registered Plan No. 909.
- (d) That the By-law not be registered prior to the registration of Aquino Gardens, Phase 1 (25T-88014).
- (e) That the By-law be repealed within 6 months of the date of its registration.

NOTE: The lands are located south of Stone Church Road East and west of Beaverton Drive in the Butler Neighbourhood, City of Hamilton.

Gateway East Study,

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 20, respecting Gateway East Study (Centennial Parkway from Confederation Park to Queenston Road) - Final Recommendations.

Mrs. C. Floroff of the Planning Department outlined the report. General discussion then ensued and the Committee approved the following:

- (a) That approval be given to Official Plan Amendment No. 86 to:
 - (i) Redesignate lands on the west side of Centennial Parkway, between the Q.E.W. interchange and the railway tracks (including the Signature Inn, retail plaza and the Pines Motel and restaurant) from "Industrial" to "Commercial", and remove from Special Policy Area 11 (Light Industrial Uses);

- (ii) Redesignate lands on the east side of Centennial Parkway, north of Barton Street (including the two car dealerships and service station) from "Industrial" to "Commercial", remove from Special Policy Area 11 and placed in a new Special Policy Area limiting commercial development to those uses which support tourism and cater to the travelling public, such as theatres, fitness clubs, car/truck rentals, restaurants, dinner clubs, and similar uses;
 - (iii) Designate all lands within the study area (as shown on the map attached herewith and marked Appendix "A", - Land Uses Concept) as a "Community Improvement Area", as shown as Schedule "H" of the Official Plan;
 - (iv) Incorporate a new policy into the Official Plan recognizing the railway's concerns regarding development adjacent to their lands and directing any future proponents for development/redevelopment to consult with CN regarding drainage, fencing and setbacks; and,
- (b) That the City Solicitor be directed to prepare a by-law to amend the Official Plan for submission to the Regional Municipality of Hamilton-Wentworth.
- (c) That the Planning and Development Department be directed to initiate discussions with the owners of the lands on the east side of Centennial Parkway, north of Barton Street (two car dealerships and service station) for the purpose of ascertaining their intentions for the development/redevelopment of their lands and their receptiveness to initiate rezonings consistent with the Official Plan Amendment noted in (a) above.
- (d) That the Neighbourhood Plans be prepared/amended on the basis of the following:
- (i) Kentley and Riverdale West Neighbourhood Plans be amended for those lands fronting onto Centennial Parkway between Barton Street and Queenston Road in accordance with the Land Use Concept; and,
 - (ii) Neighbourhood Plans be prepared for those portions of Lakely and Nashdale Neighbourhoods fronting onto Centennial Parkway, between the Q.E.W. and Barton Street, in accordance with the Land Use Concept. Special policies recognizing CN's concerns should be recognized for those lands adjacent to the railway line.
 - (iii) That in conjunction with the revision/preparation of these Neighbourhood Plans, urban design guidelines should be established for the entire area and should reflect the concepts articulated in Section 3.0 of the Gateway East Study.
- (e) That Site Plan Control By-laws No. 87-223 and 79-275 be amended to include those lands within the Study Area not now covered by Site Plan Control.
- (f) That actions and priorities as detailed in Table 11 - Implementation Strategy - Design Improvements, attached herewith and marked Appendix "B", be endorsed, and staff be directed to coordinate their implementation with other departments and agencies.
- (g) That the Planning and Development Department, in conjunction with the Community Development Department and the Region's Economic Development Department, be directed to:

- (i) Liaise with the local business people, land owners, etc., in an attempt to establish a local business association for some or all of the study area; and,
- (ii) In conjunction with (i) above, identify an area theme for promotional purposes.
- (h) That the Region's Engineering Department be advised that with respect to the draft Regional Signage Study, that:
 - (i) The Province be requested to consider signing the Centennial Parkway interchange on the Q.E.W. as "Hamilton";
 - (ii) The Province be requested to consider identifying Centennial Parkway as an alternate route to downtown Hamilton; and,
 - (iii) Trail blazer signs be provided for Confederation Park and Wild Water Works.

NOTE: The Gateway East Study (Centennial Parkway from Confederation Park to Queenston Road) was initiated at the request of the Planning and Development Committee and the Executive Committee to study;

- (a) "Ways and means of improving the promotion of the hospitality industry in the City"; and,
- (b) "The present and proposed zoning and development of properties fronting on Highway 20 .. to ensure maximum benefits to the City as a growth area".

Accordingly, the Gateway East Study was undertaken. Its findings were reviewed by the public at an Open House on 1989 August 9 and 10, and a Public Meeting of the Planning and Development Committee on 1989 September 13.

As a result of the public input and comments received from various departments and agencies, the study findings have been refined and the above-noted final recommendations prepared for Committee and Council consideration.

Land Use Review -
Upper James Street
(Wembly to South
Bend Roads)

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 20, respecting Land Use Review - Upper James Street (Wembly to South Bend Roads).

Considerable discussion ensued on this matter between the two Ward Aldermen that represent both sides of the Street and the Committee approved the following:

That the Planning and Development Committee direct staff to schedule a Public Meeting to presents the findings of the Upper James Street (Wembly to South Bend Roads) - west side only - Land Use Review and solicit Public input.

Amendments to the
Albion Falls
Neighbourhood Plan.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 19, respecting Amendments to the Albion Falls Neighbourhood Plan.

The Committee approved the following:

That the approved plan for the Albion Falls Neighbourhood be amended, as shown on the map attached herewith and marked Appendix "C", to reflect proposed pedestrian bridges and closures of roadway sections included in the Red Hill Creek Recreation Master Plan.

NOTE: The Red Hill Creek Recreation Master Plan was prepared to provide a detailed framework to maximize the open space potential within the Red Hill Creek Valley, in the vicinity of the approved roadway facility. The Plan includes pedestrian trails and bridges and year-round recreational facilities. The Plan was finalized during 1988-1989, and underwent public review, submissions and revisions. It received approval from the Parks and Recreation Committee on 1989 December 5, and was adopted by City Council on 1989 December 12.

The Master Plan takes into consideration various recreational needs, including the need for pedestrian crossings of the Proposed Mountain Freeway, both above and below the escarpment. Such crossings by means of bridges and underpasses, are necessary to access schools, community facilities, etc. There are also a number of roadway section closures in the vicinity of the proposed roadway, in locations where grade separations are not warranted.

The Albion Falls Neighbourhood Plan should be amended to reflect the pedestrian overpasses and roadway section closures as outlined above, to ensure that it is consistent with the approved Recreation Master Plan.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 14, respecting Proposed Renaming of a part of Cannon Street West.

Proposed renaming of
a part of Cannon
Street West.

Discussion ensued on this matter and the Committee approved the following:

That the proposed name change to Cannon Boulevard NOT be recommended for approval.

The Committee was asked to table Item 10 of their Agenda, respecting Designation - MacNab-Charles Heritage Conservation District. The Director of Local Planning advised that the lengthy background documents are not prepared at this time and that this matter will be brought back to the next meeting of the Committee.

Designation - MacNab-
Charles Heritage
Conservation District.

Accordingly, the Committee agreed to table this matter to the next meeting.

At this point the Committee moved to the City Hall Council Chambers to hear Zoning Applications.

Zoning Applications.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 18, respecting Amended Zoning Application 89-86, for property at 780 Upper Paradise Road.

ZA89-86 - 780 Upper
Paradise Road.

Report of the circularization was given as follows:

175 notices sent 3 in favour 4 opposed

The Committee was in receipt of a Letter of Submission on this matter from Mr. E. A. Simpson, 800 Upper Paradise Road, Unit 37.

The Committee discussed this matter and approved the following:

That approval be given to amended Zoning Application 89-86, Renata Golba and Mirosław Chuchla, owners, requesting a change in zoning from "AA" (Agricultural) District to "DE" (Low Density Multiple Dwellings) District to permit a multiple dwelling having a maximum of four dwelling units, for property located at 780 Upper Paradise Road, as shown on the attached map marked as Appendix "D", on the following basis:

- (a) That the subject lands be rezoned from "AA" (Agricultural) District to "DE" (Low Density Multiple Dwellings) District;

- (b) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map W-37B for presentation to City Council;
- (c) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area; and,
- (d) That the approved Gurnett Neighbourhood Plan be amended by redesignating the lands to "Attached Housing".

NOTE: The purpose of the By-law is to provide for a change in zoning from "AA" (Agricultural) District to "DE" (Low Density Multiple Dwellings) District for property located at 780 Upper Paradise Road.

The effect of the proposed change in zoning is to permit the construction of a multiple dwelling having a maximum of four (4) dwelling units. The existing building would be demolished.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 18, respecting an Amended Zoning Application 89-97, for property at 1000 Upper Gage Avenue.

Alderman Merling, the Ward Alderman advised that several letters as well as a petition had been received from people in the area objecting to the original application which was requesting permission to open a skate board facility and a non-alcoholic club on this property.

The Alderman pointed out that the amended application before the Committee has been changed to permit a shopping centre identification sign only on the property and not a skate board facility as originally proposed.

The Committee then approved the following application:

That approval be given to amended Zoning Application 89-97, Joseph Greenbaum, owner, requesting a further modification to the established "G" (Neighbourhood Shopping Centre, etc.) District regulations to permit a shopping centre identification sign on property located at 1000 Upper Gage Avenue, as shown on the attached map marked as Appendix "E", on the following basis:

- (a) That the "G" (Neighbourhood Shopping Centre, etc.) District regulations as contained in Section 13 of Zoning By-law No. 6593, as amended by By-law No. 86-115, applicable to the subject lands, be further modified to include the following variances as special provisions:
 - (i) That notwithstanding the provisions of Section 13.(1) of Zoning By-law No. 6593 a shopping centre identification sign having a maximum sign area of 12m² shall be permitted subject to the provisions of Section 13A(1)(xii) 3 and 5;
 - (ii) That notwithstanding the provisions of Section 13.(3) of Zoning By-law No. 6593 the shopping centre identification sign shall be set back a minimum of 3.0m from any street line;
 - (iii) That the shopping centre identification sign shall be set back a minimum of 3.0m from the nearest access driveway;
 - (iv) That the shopping centre identification sign shall have a minimum clear height of 3.0m from the ground to the bottom of the sign.

- (b) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as schedule S-156C, and that the subject lands on Zoning District Map E-38A be notated S-156C;
- (c) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-38A for presentation to City Council;
- (d) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning area.

NOTE: The purpose of the By-law is to provide for a modification to the "G" (Neighbourhood Shopping Centre, etc.) District regulations, applicable to property located at 1000 Upper Gage Avenue.

The effect of the By-law is to permit a shopping centre identification sign to be located on the site subject to the following restrictions:

- (a) A maximum sign area of 12m²;
- (b) The sign shall be located at a distance of not less than 3.0m from a street-line or access driveway; and
- (c) The sign shall have a height of at least 3.0m from the ground to the bottom of the sign.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 13, respecting Amended Zoning Application 89-106, for property at the rear of 323 Rymal Road East.

ZA 89-106 - rear of
323 Rymal Road East.

The Committee approved the following:

That approval be given to amended Zoning Application 89-106, Eric Miles, owner, requesting a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District to permit single-family residential development for property located at the rear of 323 Rymal Road East, as shown on the attached map marked as Appendix "F", on the following basis:

- (a) That the subject lands be rezoned from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District;
- (b) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Maps E-18D and E-18E for presentation to City Council; and,
- (c) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

NOTE: The purpose of the By-law is to establish a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District for property located at the rear of 323 Rymal Road East.

The effect of the By-law is to sever the subject property to create four (4) building lots for single-family dwellings, fronting onto Bastille Street.

At this point, there was a break in the timing for Zoning Applications and some of the Aldermen expressed concerns at the Zoning Applications signs which are remaining up for lengthy periods after decisions have been made on that particular application.

Zoning Application
signs.

Mr. P. Mallard of the Planning Department advised that a letter is sent to the applicants advising of the Committee's decision as well as directing them to take the sign down. He also added that a follow up letter is sent to the applicant if the Planning Department is notified of non-compliance in having the sign taken down.

Following discussion on this matter, the Committee approved the following:

That the Public Notification Procedure for Sign Posting Requirements for Zoning Applications, approved by City Council on 1987 March 10th, be amended to require that the Planning Department advise the applicant that the sign must be removed 30 days after the By-law comes into effect, or 30 days after City Council has denied the application.

ZA 89-42 - north of
Rymal Road East
between Upper Sherman
Avenue and Upper
Wentworth Street
and SA 89-13.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 20, respecting Amended Zoning Application 89-42, for property for the lands north of Rymal Road East between Upper Sherman Avenue and Upper Wentworth Street.

The report also respected Subdivision Application SA-89-13, for a Draft Plan of Subdivision north of Rymal Road East between Upper Wentworth Street and Upper Sherman Avenue.

The Committee approved the following:

- (a) That approval be given to Official Plan Amendment No. 85 to redesignate the northerly portion of Block "1" from "Utilities" to "Residential" and the City Solicitor be directed to prepare a By-law for submission to the Regional Municipality of Hamilton-Wentworth.
- (b) That approval be given to amended Zoning Application 89-42, Rymal Square Developments Inc., owner, requesting changes in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District (Blocks "1" and "2"), "R-4" (Small Lot Single-Family Detached) District (Block "3"), "RT-20" (Townhouse-Maisonette) District modified (Blocks "4", "5", "6" and "7"), "DE-3" (Multiple Dwellings) District (Blocks "8", "9" and "10"), "E-2" (Multiple Dwellings) District (Blocks "11", "12" and "13"), and "G-1" (Designed Shopping Centres) District (Block "14"), to permit the development of the subject lands for single-family dwellings (Blocks "1" and "2"), small lot single-family dwellings (Block "3"), townhouses (Blocks "4" to "7"), low density apartments (Blocks "8" to "10"), medium density apartments (Blocks "11" to "13") and a shopping plaza (Block "14" in conjunction with the lands to the south), for the lands north of Rymal Road East between Upper Sherman Avenue and Upper Wentworth Street, as shown on the attached map marked as Appendix "G", on the following basis:
 - (i) That Blocks "1" and "2" be rezoned from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District;
 - (ii) That Blocks "3" be rezoned from "AA" (Agricultural) District to "R-4" (Small Lot Single-Family Detached) District;
 - (iii) That Blocks "4", "5", "6" and "7" be rezoned from "AA" (Agricultural) District to "RT-20" (Townhouse-Maisonette) District;
 - (iv) That Blocks "8", "9" and "10" be rezoned from "AA" (Agricultural) District to "DE-3" (Multiple Dwellings) District;

- (v) That Blocks "11", "12" and "13" be rezoned from "AA" (Agricultural) District to "E-2" (Multiple Dwellings) District;
- (vi) That Block "14" be rezoned from "AA" (Agricultural) District to "G-1" (Designed Shopping Centre) District;
- (vii) That the "RT-20" (Townhouse-Maisonette) District regulations contained in Section 10E of Zoning By-law No. 6593, applicable to Blocks "4", "5", "6" and "7", be modified to include the following variance as a special requirement:
 - (1.) That Section 10E (2)(a)(3) shall be prohibited.
- (viii) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1156, and that Blocks "4", "5", "6" and "7" on Zoning District Map E-27D be notated S-1156;
- (ix) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-27D for presentation to City Council;
- (x) That the proposed change in zoning will be in conformity with the Official Plan for the Hamilton Planning Area upon the approval of Official Plan Amendment No. 85 by the Regional Municipality of Hamilton-Wentworth.
- (xi) That the Neighbourhood Plan be amended accordingly.

NOTE: The purpose of the By-law is to provide for changes in zoning from the lands located north of Rymal Road East, between Upper Wentworth Street and Upper Sherman Avenue, on the following basis:

- (a) Change in Zoning from "AA" (Agricultural) District to:
 - (i) Blocks "1" and "2" - "C" (Urban Protected Residential, etc.) District;
 - (ii) Blocks "3" - "R-4" (Small Lot Single-Family Detached) District;
 - (iii) Blocks "4" to "7" - "RT-20" (Townhouse-Maisonette) District modified;
 - (iv) Blocks "8" to "10" - "DE-3" (Multiple Dwellings) District;
 - (v) Blocks "11" to "13" - "E-2" (Multiple Dwellings) District;
 - (vi) Block "14" - "G-1" (Designed Shopping Centres) District.
- (b) The effect of the by-law is to permit the development of the subject lands for:
 - (i) Blocks "1" and "2" - single family dwellings;
 - (ii) Block "3" - small lot single-family dwellings;
 - (iii) Blocks "4" to "7" - townhouses and maisonettes (no street townhouses);
 - (iv) Blocks "8" to "10" - low density apartments;

- (v) Blocks "11" to "13" - medium density apartments;
- (vi) Block "14" - shopping centre (in conjunction with lands to the south)

SA 89-13 - north of
Rymal Road East
between Upper Wentworth
and Upper Sherman.

- (a) That approval be given to Subdivision Application 89-13, Rymal Square Developments Inc., owner, to establish a draft plan of subdivision north of Rymal Road East between Upper Wentworth Street and Upper Sherman Avenue, subject to the following conditions:

- (i) That the approval apply to the plan prepared by MacKay, MacKay and Peters Ltd., dated 1989 March 15, revised to show 174 lots for single-family dwellings, 50 lots for small lot single-family dwellings, Blocks "230", "231", "234" and "235" for townhouse and maisonette development, Blocks "225", "229" and "233" for low density apartments, Blocks "226", "227" and "228" for medium density apartments, Block "232" for a shopping centre, Blocks "236" and "237" for development with adjacent lands, Blocks "238" to "241" inclusive for road widenings, and Block "242" as a planting strip (in conjunction with Block "232").
- (ii) That all streets within the final plan be established to their full required width either through acquisition by the owner or where required by By-law of the City of Hamilton.
- (iii) That Street "B" align with the sewer easement shown on Sewer Plan 88-S-56 east of Upper Wentworth Street.
- (iv) That the streets and the street widenings and daylighting for Rymal Road East, Upper Wentworth Street and Upper Sherman Avenue be dedicated to the City of Hamilton as public highways on the final plan.
- (v) That the streets be named to the satisfaction of the City of Hamilton and the Regional Municipality of Hamilton-Wentworth.
- (vi) That the final plan conform with the Zoning By-law approved under The Planning Act.
- (vii) That such easements as may be required for utility or drainage purposes be granted to the appropriate authority.
- (viii) That the owner provide the City of Hamilton with a certified list showing the net area and width of each lot and block in the final plan.
- (ix) That the owner make a cash payment in lieu of the conveyance of 5% of the land included in the plan to the City of Hamilton for park purposes.
- (x) That Blocks "236" and "237" be developed with abutting lands.
- (xi) That any dead-ends and open sides of the road allowances created by the plan be terminated in 0.3m reserves to be conveyed to the City of Hamilton and be held by the City until required for the future extension of the road allowances or development of adjacent lands.
- (xii) That 2m x 2m daylight triangles be established on all L-shaped streets.

- (xiii) That the streets align with those to be established by the plan to the north.
 - (xiv) That the owner shall erect a sign in accordance with Section XI of the subsequent Subdivision Agreement prior to the issuance of a final release by the City of Hamilton.
 - (xv) That the owner agree in writing to satisfy all the requirements, financial and otherwise, of the City of Hamilton.
- (b) That the Subdivision Agreement be entered into by the Corporation of the City of Hamilton and the owner to provide for compliance with the conditions of approval established by the Hamilton-Wentworth Region with respect to this application (SA-89-13), Rymal Square Developments Inc., owner, proposed draft plan of subdivision, and that the City execute the agreement when the said conditions have been met and the City's share of the cost of installing municipal services has been approved by City Council.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 12, respecting Subdivision Application SA-89-15, for a Draft Plan of Subdivision located on the east side of Eleanor Avenue and on the north side of Dulgaren Street.

The report also contained a report on Zoning Application 89-72, for property at the rear of 77 Eleanor Avenue.

The Committee approved the following:

- (a) That approval be given to Subdivision Application 89-15, "Sgro Gardens", Vito and Angela Sgro, owners, to establish a draft plan of subdivision located on the east side of Eleanor Avenue and on the north side of Dulgaren Street in the Eleanor Neighbourhood, subject to the following conditions:
- (i) That this approval apply to the plan prepared by A. J. Clarke and Associates Ltd., dated 1989 May 17, revised by locating Mentino Crescent to align centre line to centre line with Presidio Drive and by providing part of a turning circle.
 - (ii) That the final plan conform with the Zoning By-law approved under The Planning Act.
 - (iii) That such easements as may be required for utility or drainage purposes be granted to the appropriate authority.
 - (iv) That the owner make a cash payment in lieu of the conveyance of 5% of the land included in the plan to the City of Hamilton for park purposes.
 - (v) That the owner provide the City of Hamilton with a certified list showing the net area and width of each lot and block in the final plan.
 - (vi) That the owner provide sufficient lands for a turning circle at the location of Lot 15 and Lot 16.
 - (vii) That the plan not receive final approval prior to the approval of services on Dulgaren Street.

SA 89-15 - east side of Eleanor Avenue and on the north side of Dulgaren Street.

ZA 89-72 - rear of 77 Eleanor Avenue.

- (viii) That the owner shall erect a sign in accordance with Section XI of the subsequent Subdivision Agreement prior to the issuance of a final release by the City of Hamilton.
- (ix) That the owner agree, in writing, to satisfy all the requirements, financial and otherwise, of the City of Hamilton.
- (b) That a Subdivision Agreement be entered into by the Corporation of the City of Hamilton and the owner to provide for compliance with the conditions of approval established by the Hamilton-Wentworth Region with respect to this application (SA-89-15), V. & A. Sgro, owners, and that the City execute the agreement when the said conditions have been met and the City's share of the cost of installing municipal service has been approved by City Council.

That approval be given to Zoning Application 89-72, Vito and Angela Sgro, owners, requesting a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District for property located at the rear of 77 Eleanor Avenue, as shown on the attached map marked as Appendix "H", on the following basis:

- (a) That the subject lands be rezoned from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District;
- (b) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Maps E-38C and E-38D for presentation to City Council; and,
- (c) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

NOTE: The purpose of the By-law is to establish a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District for property located at the rear of 77 Eleanor Avenue.

The effect of the By-law is to subdivide the subject property into building lots for single-family dwellings.

ZA 88-111 - 829,
837, 845 and 867
Rymal Road East.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 18, respecting Zoning Application 88-111, for property located at 829, 837, 845 and 867 Rymal Road East.

Report of the circularization was given as follows:

299 notices sent 3 in favour 4 opposed

The Committee was in receipt of a Letter of Submission from Mr. John A. Parente, Barrister and Solicitor, agent for the applicants as well as a petition respecting rezoning application ZA-88-111.

Mr. Harnden, owner of the property directly to the north of Block 1 in the development spoke and expressed concerns at the impact that approval of this recommendation would have on his property.

Mr. Parente, Lawyer on behalf of the owners, spoke to the Committee and made mention of the petition which the Committee was in receipt of. He also spoke on the reasons that the application should be approved.

Following discussion on this matter the Committee approved the following DENIAL recommendation of this application:

That Zoning Application 88-111, J. Calzonetti, owner, requesting changes in zoning from "AA" (Agricultural) District to "H" (Community Shopping and Commercial, etc.) District (Block "1"), and "C" (Urban Protected Residential, etc.) District to "H" (Community Shopping and Commercial, etc.) District (Block "2"), to permit the construction of a strip commercial plaza, for the properties located at 829, 837, 845 and 867 Rymal Road East, as shown on the attached map marked as Appendix "I", be DENIED for the following reasons:

- (a) The proposal conflicts with the intent of the Official Plan which designates the majority of the lands "Residential".
- (b) It conflicts with the recently approved Eleanor Neighbourhood Plan which designates the site "Commercial and Apartments" (minimum 50% residential), "Attached Housing" and "Single and Double Housing". The intent of the "Commercial and Apartments" designation is to allow for mixed use developments and not solely for commercial purposes.
- (c) Approval of the application may encourage other similar applications, which, if approved, would undermine the intent of the Official Plan and Neighbourhood Plan.

Mr. P. Mallard of the Planning Department spoke to the Committee on some difficulties that had been discovered with respect to a recently compiled by-law respecting property at 1066 Upper James Street (Red Lobster). He advised that after reviewing the by-law some difficulties came to their attention which require that the by-law needs to be amended to reflect the intent of the resolution.

By-law for 1066 Upper James Street (Red Lobster).

The Committee approved that the appropriate resolution be forwarded to City Council in order that the necessary amendments can be made to this matter.

- (a) That By-law 89-365 be repealed in its entirety.
- (b) That Section 10 of the 23rd Report for 1988 of the Planning and Development Committee approved by City Council on 1988 November 29, be repealed in its entirety, and replaced with the following:
 - (i) That approval be given to Zoning Application 88-82, Red Lobster Canada, lessee, for a change in zoning from "AA" (Agricultural) District to "G-3" (Public Parking Lots) District, to permit the use of the land for a parking lot in conjunction with the Red Lobster restaurant, for property located at the rear of 1066 Upper James Street, as shown on the attached map marked as Appendix "J", on the following basis:
 - (1.) That the subject lands be rezoned from "AA" (Agricultural) District to "G-3" (Public Parking Lots) District;
 - (2.) That the "G-3" (Public Parking Lots) District regulations as contained in Section 13C of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following variances as special requirements:
 - (a) Notwithstanding Section 13C(3)(ii) of Zoning By-law No. 6593, a minimum 3.0m wide landscaped planting strip shall be provided and maintained along the northerly and westerly lot lines, and a minimum 1.5m wide landscaped planting strip shall be provided and maintained along the southerly lot line.

- (b) Notwithstanding Section 13C(3)(iii) of Zoning By-law No. 6593, a visual barrier not less than 1.2m and not greater than 2.0m in height shall be provided and maintained along the northerly, southerly and westerly lot lines.
 - (3.) That the amending by-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1103, and that the subject lands on Zoning District Map W-9A be notated S-1103;
 - (4.) That the City Solicitor be directed to prepare a by-law to amend Zoning By-law No. 6593 and Zoning District Map W-9A for presentation to City Council;
 - (5.) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area;
 - (6.) That the Yeoville Neighbourhood Plan be amended by redesignating the subject lands from "Single and Double Housing" to "Commercial".
- (c) That the amending by-law not be forwarded to City Council for passage until such time as the required site plan is approved by the Planning and Development Committee.

NOTE: The purpose of the by-law is to provide for a change in zoning from "AA" (Agricultural) District to "G-3" (Public Parking Lots) District.

The effect of the by-law is to permit a parking lot in conjunction with the Red Lobster restaurant located at 1066 Upper James Street.

In addition, the by-law will require the following:

- (a) A minimum 3.0m wide landscaped planting strip to be provided and maintained along the northerly and westerly lot lines;
- (b) A minimum 1.5m wide landscaped planting strip to be provided and maintained along the southerly lot line; and,
- (c) A visual barrier not less than 1.2m and not greater than 2.0m in height to be provided and maintained along the northerly, southerly and westerly lot lines.

NOTE: Alderman Drury and Alderman Kiss opposed.

Alderman Christopherson spoke to the Committee with respect to the Staff Reports sent to the Committee of Adjustment. He expressed concern that the Committees are receiving these comments from the Planning Department and Building Department in a very short time frame and feels frustrated in dealing with constituents cases when he has not had an opportunity to review a report which he has only received hours before the hearing takes place.

Alderman Merling commented on this matter as well and agreed that staff comments should be in to the Secretary of the Committee of Adjustment at least 48 hours before the meeting takes place.

Secretary's note: Following the meeting it was brought to the Secretary's attention that staff comments from the Traffic Department are also being received on a very late basis.

Alderman Drury spoke to the Committee with respect to Planning staff attending an upcoming O.M.B. Hearing in support of a Committee of Adjustment decision being appealed.

Staff reports -
Committee of Adjustment.

Staff attendance -
O.M.B. Hearings.

Considerable discussion ensued on this matter and the process presently in place for staff attending O.M.B. Hearings. It was indicated that if the Ontario Municipal Board Chairman wishes to have Planning Department staff speak at a hearing that they should subpoena the Planning staff to attend that particular hearing.

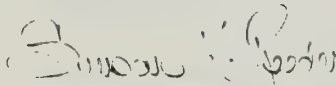
There being no further business, the meeting then adjourned.

Adjournment.

Taken as read and approved,



ALDERMAN J. SMITH, CHAIRMAN
PLANNING AND DEVELOPMENT COMMITTEE



Susan K. Reeder
Secretary
1990 January 3rd

Wednesday, 1990 January 24
9:00 o'clock a.m.
Room 233, City Hall

The Planning and Development Committee met.

There were present: Alderman J. Smith, Chairman
Alderman F. Lombardo, Vice-Chairman
Mayor Robert M. Morrow
Alderman M. Kiss
Alderman H. Merling
Alderman W. McCulloch
Alderman D. Christopherson
Alderman D. Drury

Regrets: Alderman D. Ross - Family Bereavement

Also present: Alderman T. Jackson
Alderman T. Murray
Mr. A. Georgieff, Director of Local Planning
Mr. J. Swartz, Regional Planning Department
Mr. M. Watson, Real Estate Division
Mr. B. Allick, Building Department
Mr. D. Pickard, Building Department
Mr. W. Wong, Building Department
Mr. R. Karl, Traffic Department
Mrs. J. Hickey-Evans, Planning Department
Mr. K. Brenner, Regional Engineering Department
Ms. L. Lawrence, City Solicitor's Office
Mrs. S. K. Reeder, Secretary

The Committee was in receipt of the minutes of their meeting held Wednesday, 1989 December 13 and approved those minutes.

Minutes - 1989
December 13.

The Committee was in receipt of a report from the Building Commissioner dated 1989 January 17, respecting Demolition Permit Applications.

Demolition Permit
Applications.

The Committee approved the following:

That the Building Commissioner be authorized to issue demolition permits for the following properties:

- (a) 230 Eleanor Avenue
- (b) 74 Melbourne Street
- (c) 401 Sherman Avenue North
- (d) 91 Arbour Road
- (e) 30 Queensdale Avenue West
- (f) 337 East Avenue North
- (g) 1198 Stone Church Road East

The Committee was in receipt of a report from the Building Commissioner dated 1990 January 3, respecting Appointment of Inspectors under the Building Code Act.

Appointment of
Inspectors under
The Building Code Act.

The Committee approved the following:

That the City Solicitor be authorized to amend By-law 87-312 as follows:

- (a) That Section 6(a) be amended by adding the name:
Wak-Kuen Wong, P. Eng.
- (b) That Section 8(a) be amended by deleting the name:
Wak-Kuen Wong, P. Eng.

- (c) That Section 9(a) be amended by deleting the name:

Gerald N. Farrell

- (d) That Section 9(a) be amended by adding the names:

Natalie Gould

Glen McCrory

NOTE: Due to recent changes in the staff of the Building Department, By-law 87-312 respecting the Appointment of Inspectors needs to be amended to accommodate these changes.

The Committee was in receipt of a report from the Director of Property dated 1990 January 8, respecting Release of Building Covenants - Louis Filo, 211-229 Lanark Street, Hamilton - Lot 6, Plan 1309 - Lakely Industrial Estates No. 1.

The Committee approved the following:

That the City Solicitor be authorized to prepare a Quit Claim Deed from the City of Hamilton to the present owner of 211-229 Lanark Street, Hamilton, Ontario to release the property from the construction covenants to the City as contained in deed instrument #103418 A.B. registered 1968 September 4.

NOTE: In adopting Section 37 of the Board of Control Report, City Council on 1968 February 27, authorized the sale of Lot 6, Registered Plan 1309 to Louis Filo. The transaction was completed on 1968 September 4. The proposed building was completed.

All the covenants as noted above have been fulfilled.

The Committee was in receipt of a report from the Acting City Solicitor dated 1990 January 9, respecting proposed Expropriation of Part of Lot 9, Concession 1, Township of Barton and part of Reserve Registered Plan 547.

The Committee approved the following:

- (a) That a By-law to expropriate, under Section 34(8) of The Planning Act, 1983, lands and structures which do not conform with a by-law passed under Section 34 which land is described as Parts 1, 2 and 4 together with a right-of-way over Part 3 on Survey 62R-10267 (measuring approximately 30.08 feet by 93.39 feet) be enacted by Council.
- (b) That the City Solicitor be directed to prepare the appropriate By-law for presentation to City Council.

NOTE: As authorized by Council at its meeting of 1989 June 27, Notice of the City's intention to expropriate this land has been advertised and served upon all persons having an interest in this land and no request for an inquiry hearing into the proposed expropriation has been received.

The next step in this expropriation under The Expropriations Act is for Council to enact the Expropriation By-law which will authorize the registration of the City's Expropriation Plan. This land is required to remove residential uses from the Industrial areas in the Alpha Enclave.

The Committee was in receipt of a report from the City Treasurer dated 1990 January 3, respecting Final Release of Holdback.

The Committee approved the following:

Release of Building
Covenants - Lakely
Industrial Estates
No. 1.

Proposed expropriation
Part of Lot 9,
Concession 1, Township
of Barton and part
of Reserve Registered
Plan 547.

Final Release of
Holdback - Delmar
Contracting Ltd.

That total holdback in the amount of \$4,620.98 be released to Delmar Contracting Limited, for the completion of P. O. No. 19070, for the Downtown Hamilton Action Plan Streetscape Phase II, pending receipt by the Treasury of the Standard Release Forms from the Contractor and City Solicitor's Department.

The Committee was in receipt of a report from the City Treasurer dated 1989 December 12, respecting Final Release of Holdback.

The Committee approved the following:

That total holdback in the amount of \$6,998.69 be released to Associated Paving Company Limited, for the completion of Contract No. 30971 for the construction of Corktown-Stinson O.N.I.P. - Parking and Driveway Facilities, pending receipt by the Treasury of the Standard Release Forms from the Contractor and City Solicitor's Department.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 12, respecting Proposed Draft Plan of Condominium Application SA-89-20, for property on the north-westerly corner of James Street and Main Street.

The Committee approved the following:

That approval be given to Proposed Draft Plan of Condominium Application SA-89-20 "Pigott and Sunlife Buildings", Reemark Heritage Gardens Limited, owner, to establish a draft plan of condominium located on the north-westerly corner of James Street and Main Street, subject to the following conditions:

- (a) That this approval apply to the plan prepared by Yates & Yates, O.L.S., dated 1989 May 5.
- (b) That the owner agree in writing to satisfy the financial requirements of the Regional Municipality of Hamilton-Wentworth.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 15, respecting Proposed Draft Plan of Condominium Application SA-89-30, for property on the south side of Rymal Road East and west of Derby Street.

The Committee approved the following:

That approval be given to Proposed Draft Plan of Condominium Application SA-89-30 "Kingsmount Place II", T. Valeri Construction Ltd., owner, to establish a draft plan of condominium located on the south side of Rymal Road East and west of Derby Street, subject to the following conditions:

- (a) That this approval apply to the plan prepared by J. D. Barnes Limited, dated 1989 October 17, showing 47 townhouse units.
- (b) That the owner agree in writing to satisfy all financial requirements of the Regional Municipality of Hamilton-Wentworth.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 15, respecting Proposed Draft Plan of Condominium Application SA-89-32, for property at the south-west corner of Rymal Road East and Derby Street.

The Committee approved the following:

Final Release of
Holdback - Associated
Paving Company Limited.

Proposed Draft Plan
of Condominium SA 89-20 -
north-westerly corner of
James and Main Streets.

Proposed Draft Plan of
Condominium SA 89-30 -
south side of Rymal Road
East and west of
Derby Street.

Proposed Draft Plan of
Condominium SA 89-32 -
south west corner of Rymal
Road East and Derby Street

That approval be given to Proposed Draft Plan of Condominium Application SA-89-32, T. Valeri Construction Limited, owner, to establish a draft plan of condominium located at the south-west corner of Rymal Road East and Derby Street, subject to the following conditions:

- (a) That this approval to the plan prepared by J. D. Barnes Limited, dated 1989 October 10, showing 50 townhouse units.
- (b) That the owner agree, in writing, to satisfy the financial requirements with the Regional Municipality of Hamilton-Wentworth.

Proposed Draft Plan of Condominium SA 89-33 - north side of Ossington Drive.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 15, respecting a proposed Draft Plan of Condominium Application SA-89-33, for property at the north side of Ossington Drive.

The Committee approved the following:

That approval be given to Proposed Draft Plan of Condominium Application SA-89-33, T. Valeri Construction Limited, owner, to establish a draft plan of condominium located at the north side of Ossington Drive, subject to the following conditions:

- (a) That this approval apply to the plan prepared by J. D. Barnes Limited, dated 1989 October 10, showing 20 townhouse units.
- (b) That the owner agree, in writing, to satisfy the financial requirements with the Regional Municipality of Hamilton-Wentworth.

Proposed Draft Plan of Condominium SA 89-31 - north easterly corner of West 5th Street and Stone Church Road.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 15, respecting Proposed Draft Plan of Condominium Application SA-89-31, for property on the north easterly corner of West 5th Street and Stone Church Road.

The Committee approved the following:

That approval be given to Proposed Draft Plan of Condominium Application SA-89-31 "Stone West Village", West Highland Management Limited, owner, to establish a draft plan of condominium located on the north easterly corner of West 5th Street and Stone Church Road, subject to the following conditions:

- (a) That this approval apply to the plan prepared by J. D. Barnes, O.L.S., dated 1989 October 30 showing 71 townhouse units.
- (b) That the owner convey the 5.18m road widenings on West 5th Street and Stone Church Road and the daylight triangle to the Regional Municipality of Hamilton-Wentworth.
- (c) That the owner agree, in writing, to satisfy all financial requirements of the Regional Municipality of Hamilton-Wentworth.

By-law to remove part-lot control - Rymal Road East and east of Upper Gage.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 11, respecting By-law to remove part-lot control from Lots 1 to 30, 53 to 67, 69 to 138, inclusive, and Block 140 of Registered Plan 62M-639.

The Committee approved the following:

- (a) That the City of Hamilton adopt a by-law to remove part-lot control from Lots 1 to 30, 53 to 67, 69 to 138, inclusive, and Block 140 of Registered Plan 62M-639.

- (b) That the City Solicitor be directed to prepare the appropriate By-law for presentation to City Council.
- (c) That the Regional Municipality of Hamilton-Wentworth be requested to approve the by-law removing part-lot control on the above noted lots and block of Registered Plan 62M-639.
- (d) That the by-law be repealed within 6-months of the date of its registration.

NOTE: The lands are located south of Rymal Road East and east of Upper Gage Avenue in the Broughton East Neighbourhood, City of Hamilton. The lands are part of Lillian Heights, a plan of subdivision which was registered in part as R.P.M-639.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1989 December 29, respecting Extension of Draft Approval for "Wisemount Forest Survey" Subdivision.

The Committee approved the following:

That the Regional Municipality of Hamilton-Wentworth be requested to grant a one year extension to the draft approval for "Wisemount Forest Survey" Subdivision (Regional File No. 25T-83004).

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 17, in which C.A.P.I.C.'s comments on the James Mountain Road Reconstruction Proposal were attached.

The Committee approved the following:

That the following recommendations of the Central Area Plan Implementation Committee be forwarded to the Regional Engineering Services Committee for consideration:

- (a) That the proposed reconstruction of James Mountain Road be delayed until such time as a study assessing the proposed improvements in the overall context of City-wide transportation needs is carried out.
- (b) That special design attention be paid to the aesthetic and environmental quality of James Mountain Road within its Niagara Escarpment setting.
- (c) That the report of C.A.P.I.C. and attachments be forwarded to the Regional Engineering Services Committee.

The Committee was in receipt of a report from the Secretary of the Local Architectural Conservation Advisory Committee dated 1989 December 11, respecting the MacNab-Charles Heritage Conservation District.

The Committee was also in receipt of two documents entitled:

- (a) MacNab-Charles Heritage Conservation District Report, November 1989, Part I; Background Report.
- (b) MacNab-Charles Heritage Conservation District Report, November 1989, Part II; The Plan.

The Committee approved the following:

- (a) That approval be given to designate by By-law the MacNab-Charles Heritage Conservation District (the block bounded by MacNab Street South, Hurst Place, Charles Street and Bold Street with the exception of 131 Charles Street) under Part V of the Ontario Heritage Act.

Extension of Draft Approval for "Wisemount Forest Survey" Subdivision.

C.A.P.I.C.'s comments on James Mountain Road Reconstruction Proposal.

MacNab-Charles Heritage Conservation District.

- (b) That the City Solicitor be authorized and directed to take appropriate action to have this district designated pursuant to the provisions of the Ontario Heritage Act 1983.
- (c) That the MacNab-Charles Heritage Conservation District Plan be approved.

NOTE: A Copy of the MacNab-Charles Heritage Conservation District Plan was circulated to members of the Planning and Development Committee. Additional copies are available from the Committee Secretary upon request.

At this point the meeting adjourned and reconvened in the City Hall Council Chambers to hear Zoning Applications.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 11, respecting Zoning Application 89-54, for property at 1527 Upper Ottawa Street.

The report recommends denial of the recommendation for the following reasons:

- (a) The "M-12" District uses are limited to wholesale commercial uses and certain light industrial uses (i.e. clothing); whereas, the proposed uses are heavier in nature. In this regard, there are other locations in the Mountain Industrial area where the proposed uses could more appropriately be located (i.e. "M-14" and "M-15" Districts).
- (b) The uses are not considered to be compatible or in character with the existing and future intended uses in the surrounding area. In addition, it would erode the "M-12" District which provides a buffer between residential uses to the west and heavier industrial to the east.
- (c) Approval of the application would encourage similar applications of this type which, if approved, would undermine the intent of the Zoning By-law and the Mountain Industrial Park Plan.

Report of the circularization was given as follows:

54 Notices sent	2 in favour	0 opposed
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Mr. Allan Silver, Solicitor for the applicants was in attendance and spoke to the application.

Following discussion on this matter, it was agreed that this application should be approved and that the By-law should prohibit any outside storage. Accordingly, the Committee approved the following:

That approval be given to Zoning Application 89-54, Dunston Development Inc., owner, requesting a modification to the "M-12" (Prestige Industrial) District regulations, to permit a plumbing contractor with accessory office, general contractor with accessory sales offices, and manufacturing of solariums, solarium windows, and greenhouses with accessory sales office, for the property located at No. 1527 Upper Ottawa Street, as shown on the attached map marked as Appendix "A", on the following basis:

- (a) That the "M-12" (Prestige Industrial) District regulations as contained in Section 17D of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following variances as special requirements:
 - (1) That notwithstanding Section 17D(1)(c), the following additional industrial uses shall be permitted:

<u>Industrial Use</u>	<u>S.I.C. Identification</u>
(1.) Single-Family Housing Development	4011
(2.) Apartment and Other Multiple Housing Development	4012
(3.) Residential Renovation	4013
(4.) Manufacturing and Light Industrial Building	4021
(5.) Commercial Building	4022
(6.) Institutional Building	4023
(7.) Septic System Installation	4213
(8.) Excavating & Grading	4214
(9.) Form Work	4222
(10.) Concrete Pouring & Finishing	4224
(11.) Precast Concrete Installations	4225
(12.) Rough & Framing Carpentry	4226
(13.) Masonry Work	4231
(14.) Siding Work	4232
(15.) Insulation Work	4234
(16.) Roof Shingling	4235
(17.) Other Exterior Close-In Work	4239
(18.) Plumbing	4241
(19.) Dry Heating & Gas Piping Work	4242
(20.) Wet Heating & Air Conditioning Work	4243
(21.) Sheet Metal & Other Duct Work	4244
(22.) Electrical Work	4261
(23.) Plastering & Stucco Work	4271
(24.) Drywall Work	4272
(25.) Acoustical Work	4273
(26.) Finish Carpentry	4274
(27.) Painting & Decorating Work	4275
(28.) Terrazzo & Tile Work	4276
(29.) Hardwood Flooring Installation	4277
(30.) Resilient Flooring & Carpet Work	4278
(31.) Other Interior & Finishing Work	4279

(ii) Notwithstanding Section 17D(1)(c), the following additional industrial use shall be permitted in addition to the uses listed in clause (i) above:

(1.) Manufacturing of solariums, solarium windows and greenhouses.

(iii) That notwithstanding Section 17D(2)(h) outdoor storage shall be prohibited.

- (b) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1159, and that the subject lands on Zoning District Map E-59D be notated S-1159;
- (c) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-59D for presentation to City Council;
- (d) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area;
- (e) That the Mountain Industrial Neighbourhood Plan be amended by redesignating the subject lands from "Restricted Commercial-Industrial" to "Restricted Industrial".

NOTE: The purpose of the by-law is to provide for a modification to the "M-12" (Prestige Industrial) District regulations, for the property located at 1527 Upper Ottawa Street.

The effect of the by-law is to permit additional industrial uses as noted above.

In addition, the by-law prohibits outside storage.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 9, respecting Zoning Application 89-112, for property located at 244 Stone Church Road West.

The Committee approved the following:

That approval be given to Zoning Application 89-112, Starward Homes Limited, prospective owner, requesting a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District, to permit the development of the subject lands for single-family dwellings by adding these lands to the lands to the west, as shown on the attached map marked as Appendix "B", on the following basis:

- (a) That the subject lands be rezoned from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District.
- (b) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map W-17C for presentation to City Council.
- (c) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

NOTE: The purpose of the by-law is to provide for a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District, for the property located at 244 Stone Church Road West.

The effect of the by-law is to permit the development of the subject lands for single-family dwellings by adding these lands to the lands to the west (Orchard Park Plan of Subdivision).

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 10, respecting Zoning Application 89-66, for property at 1575 Upper Ottawa Street.

The Committee was in receipt of a Letter of Submission from Phyllis Fitzgerald, 61 Everest Street respecting this application.

Mr. Fitzgerald, 61 Everest Street was in attendance and spoke on behalf of homeowners in the area. He advised that they are opposed to this application and feel that additional uses being recommended for this property are a disadvantage for the present homeowners.

A representative for the applicant was in attendance and spoke on the proposed uses for the property. He added that he feels that automotive uses would not affect the homeowners.

Report of the circularization was given as follows:

73 Notices sent 4 in favour 8 opposed

Following considerable discussion on this matter by the Committee, it was agreed that this application should be approved, but that a restriction be placed on outside storage.

Accordingly, the Committee approved the following:

ZA 89-112 - 244 Stone Church Road West.

ZA 89-66 - 1575 Upper Ottawa Street.

That approval be given to Zoning Application 89-66, 804907 Ontario Limited, (Ming Sun Holdings Inc.) owner, requesting a modification to the established "M-12" (Prestige Industrial) District, for property located at 1575 Upper Ottawa Street, as shown on the attached map marked as Appendix "C", on the following basis:

- (a) That the "M-12" (Prestige Industrial) District regulations as contained in Section 17D of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following variances as special requirements:

- (i) That notwithstanding Section 17D(1)(b) of By-law No. 6593 the following Commercial uses shall be permitted:

<u>Commercial Use</u>	<u>S.I.C. Identification</u>
(1.) Tire, Battery, Parts and Accessories Store	6342
(2.) Garages (General Repairs)	6351
(3.) Muffler Replacement Shops	6353
(4.) Motor Vehicle Glass Replacement Shops	6354
(5.) Motor Vehicle Transmission Repair and Replacement Shops	6355
(6.) Other Motor Vehicle Repair Shops	6359
(7.) Other Motor Vehicle Services n.e.c.	6399

- (ii) That notwithstanding Section 17D(2)(h) of By-law No. 6593 outside storage shall be prohibited.

- (b) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1157, and that the subject lands on Zoning District Map E-59D be notated S-1157;
- (c) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-59D for presentation to City Council;
- (d) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area; and
- (e) That the Mountain Industrial Area Neighbourhood Plan be amended by redesignating the subject lands from "Restricted Industrial/Commercial" to "Restricted Commercial".

NOTE: The purpose of the By-law is to provide for a modification to the "M-12" (Prestige Industrial) District for property located at 1575 Upper Ottawa Street.

The effect of the By-law is to permit the following additional automotive related commercial uses:

<u>Commercial Use</u>	<u>S.I.C. Identification</u>
(a) Tire, Battery, Parts and Accessories Store	6342
(b) Garages (General Repairs)	6351
(c) Muffler Replacement Shops	6353
(d) Motor Vehicle Glass Replacement Shops	6354
(e) Motor Vehicle Transmission Repair and Replacement Shops	6355
(f) Other Motor Vehicle Repair Shops	6359
(g) Other Motor Vehicle Services n.e.c.	6399

In addition, the By-law prohibits outside storage.

ZA 89-84 - 1314 Upper
Wentworth Street.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 15, respecting Zoning Application 89-84, for property at 1314 Upper Wentworth Street.

Report of the circularization was given as follows:

112 Notices sent 7 in favour 5 opposed

Mr. Papastamof, owner, and applicant for this application spoke on the reasons why his application should be approved. He added that this development will be an improvement to the area and that proper fencing will be installed.

Discussion ensued on this matter and it was agreed that this application should be approved, subject to site plan control.

Accordingly, the Committee approved the following:

- (a) That approval be given to an amended Zoning Application 89-84, 518374 Ontario Ltd., (Angelo Papastamos) owner, for a modification to the established "AA" (Agricultural) District to permit conversion of the existing building from a legal non-conforming auto-body business to a retail variety store on the first floor and business and professional persons offices on the second floor, for property located at 1314 Upper Wentworth Street, as shown on the attached map marked as Appendix "D", on the following basis:

- (i) That the "AA" (Agricultural) District regulations as contained in Section 7A of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following variances as special requirements:

- (1.) That notwithstanding Section 7A(1), the following uses shall be permitted:

Commercial Uses only within the Existing Building:

- (a) A retail variety store;
- (b) Business and professional person's office.

Accessory Use:

- (a) For each establishment, a window sign or an outdoor advertising or other sign of the kind known as a wall sign, of an area of not more than 2.5 square metres (26.91 square feet), not overhanging a highway and not extending more than 5.0 metres (16.40 feet) above grade or more than 1.0 metres (3.28 feet) above the top of the first storey of the building to which the same is attached, whichever is the higher, provided that not more than one such sign shall be permitted facing each street upon which each establishment abuts; and provided further that no such sign shall be illuminated otherwise than by non-flashing indirect lighting.
- (ii) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1158, and that the subject lands on Zoning District Map E-18C be notated S-1158;
- (iii) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-18C for presentation to City Council;
- (iv) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

- (v) That By-law No. 79-275 as amended by By-law No. 87-223 establishing Site Plan control be amended by adding the lands shown on the attached map marked as Appendix "D" to Schedule "A".
- (b) That the amending By-law not be forwarded for passage by City Council until such time as a site plan has been approved by the Planning and Development Committee.

NOTE: The purpose of this By-law is to provide for a modification to the established "AA" (Agricultural) District regulations for property located at 1314 Upper Wentworth Street.

The effect of the By-law is to permit conversion of the existing building from that of a legal non-conforming auto-body business to a retail variety store on the ground floor and, business and professional offices on a second floor. The height of the building is such that it would lend itself to the introduction of a second floor.

In addition, the By-law provides for accessory signage.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 17, respecting an Amended Zoning Application 89-102, for property on the east side of Upper Sherman Avenue, north of Limeridge Road East.

Amended ZA 89-102 -
east side of Upper Sherman
Avenue, north of
Limeridge Road East.

The Committee approved the following:

That approval be given to amended Zoning Application 89-102, Carmen Chiaravalle and Anthony Lemmelo, owners, for a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District modified for lands described as Block "1" and a modification to the "C" (Urban Protected Residential, etc.) District regulations for land described as Block "2", to create four single-family dwelling building lots, for property located on the east side of Upper Sherman Avenue north of Limeridge Road East, as shown on the attached map marked as Appendix "E", on the following basis:

- (a) That Block "1" be rezoned from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District;
- (b) That the "C" (Urban Protected Residential, etc.) District regulations contained in Section 9 of Zoning By-law No. 6593, applicable to the lands shown as Blocks "1" and "2", be modified to include the following as special provisions:
 - (i) That notwithstanding Section 9(3) of Zoning By-law No. 6593, no building shall be permitted within 5 metres of the southerly lot line adjoining Limeridge Road East;
 - (ii) That notwithstanding Section 9(4) of Zoning By-law No. 6593, the most northerly three lots shall have a minimum lot area of 330m² each;
 - (iii) Access to Lot 4 (Appendix "F") shall be restricted to Limeridge Road East only and shall be approximately 3m from the easterly lot line and shall be at least 3m from the daylight triangle; and,
 - (iv) Access to Lot 3 (Appendix "F") shall be on the north limit of the lot to Upper Sherman Avenue.
- (c) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1160, and that the subject lands on Zoning District Maps E-38A and E-38B be notated S-1160;

- (d) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Maps E-38A and E-38B for presentation to City Council;
- (e) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area; and,
- (f) That the Lawfield Neighbourhood Plan be amended by redesignating the subject lands from "Low Density Apartments" to "Single and Double Residential".

NOTE: The purpose of the proposed By-law is to provide for a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District modified for lands described as Block "1", and a modification to the "C" (Urban Protected Residential, etc.) District regulations for lands described as Block "2".

The effect of the proposed change in zoning is to divide the subject land into four (4) building lots for single-family detached dwellings. In addition, the By-law provides for the following as special requirements:

- (a) The three northern lots shall have a minimum lot area of 330 square metres each, whereas 360m² is required;
- (b) No building shall be permitted within 5 metres of the southern lot line (i.e. Limeridge Road East);
- (c) Access to the southern lot shall be restricted to Limeridge Road East and shall be at least 3m from the easterly lot line and at least 3m from the daylight triangle at the corner of Upper Sherman Avenue and Limeridge Road East; and,
- (d) Access to Lot 3 shall be at the north limit of the lot to Upper Sherman Avenue.

ZA 89-119 - 65
Walnut Street South.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 15, respecting Zoning Application 89-119, for property at 65 Walnut Street South.

The Committee approved the following:

That approval be given to Zoning Application 89-119, Lynn Mitges and Anna McCusker, owners, requesting a further modification to the "E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations to permit a flower shop and an office, for property located at 65 Walnut Street South, as shown on the attached map marked as Appendix "G", on the following basis:

- (a) That the "E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations as contained in Section 11A of Zoning By-law No. 6593, as amended by By-law No. 85-213, applicable to the subject lands, be modified to include the following variances as special provisions:
 - (i) That notwithstanding Section 11A(1)(iii) of Zoning By-law No. 6593, a flower shop shall be permitted;
 - (ii) That notwithstanding Section 11A(1)(iii)(g) of Zoning By-law No. 6593, the storage of materials shall be permitted and shall occupy no more than one-half the floor area;
- (b) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-927a, and that the subject lands on Zoning District Map E-5 be notated S-927a;

- (c) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-5 for presentation to City Council; and,
- (d) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

NOTE: The purpose of the proposed By-law is to provide for a modification to the "E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District for property located at 65 Walnut Street South.

The effect of this By-law is to permit a flower shop and office within the existing building. In addition, the by-law provides, as a special provision, that the storage of materials shall occupy not more than one-half of the floor area of the building.

The Committee was advised of the upcoming National Planning Conference of the American Planning Association to take place in Denver, Colorado on 1990 April 21-25.

National Planning
Conference - American
Planning Association.

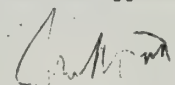
The Committee approved the following:

That the Chairman, or his designate, be authorized to attend the 1990 National Planning Conference of the American Planning Association to be held in Denver, Colorado on 1990 April 21-25.

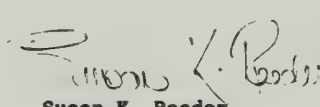
There being no further business, the meeting then adjourned.

Adjournment.

Taken as read and approved,



ALDERMAN J. SMITH, CHAIRMAN
PLANNING AND DEVELOPMENT COMMITTEE



Susan K. Reeder
Secretary
1990 January 24

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OFFICE OF THE CITY CLERK

TEL: 546-2700
FAX: 546-2095

1990 March 2nd

NOTICE OF MEETING

Planning and Development Committee
Wednesday, 1990 March 7th
9:00 o'clock a.m.
Room 233, City Hall

A handwritten signature in black ink that reads "Susan K. Reeder." The signature is fluid and cursive.

Susan K. Reeder
Secretary

SKR:dbm

ZONING APPLICATIONS WILL BE HEARD
IN THE COUNCIL CHAMBERS AT 10:30 O'CLOCK A.M.

A G E N D A

1. Minutes of the meeting held Wednesday, 1990 February 7th.

BUILDING COMMISSIONER

2. Demolition Permit Applications.
3. 1990 Annual Conference of the Ontario Association of Committees of Adjustment.
4. Demolition - 266-280 King Street East.
 - (a) Report - Building Commissioner.
 - (b) Report - Secretary, Local Architectural Conservation Advisory Committee.
 - (c) Information Report - Building Commissioner.

DIRECTOR OF LOCAL PLANNING

5. Draft Plan of Condominium (SA=89-34) Krystle Manor, Nestex Developments Ltd., owner, of lands located on the west side of Quigley Road, south of Albright Road; Vincent Neighbourhood.

LOCAL ARCHITECTURAL CONSERVATION ADVISORY COMMITTEE

6. Mandatory Attendance at L.A.C.A.C. Technical Workshops - Resolution - City of Cambridge.

DIRECTOR OF PROPERTY

7. Release of Building Covenants.
 - (a) 1276 Stone Church Road East.
 - (b) 1154 Rymal Road East.
8. Lloyd D. Jackson Square - Restaurant/Health Club Proposal & Agreements.

ZONING APPLICATIONS

10:30 O'CLOCK A.M.

COUNCIL CHAMBERS

10:30 O'CLOCK A.M.

9. Zoning Application 89-116, P. and A. Schaller, owners, for a modification to the "C" District regulations for property at 81 Myrtle Avenue; St. Clair Neighbourhood.
10. Subdivision Application 89-14 and Zoning Application 89-80, C. Valery Construction, owner, for a change in zoning from "AA" to "R-4" for land on the south side of Mud Street and west of the City Limits; Albion Falls Neighbourhood.
11. City Initiative 89-1, City of Hamilton, owner, for a change in zoning from "D" to "G-3" for properties at 207, 209 and 211 Hughson Street North; Beasley Neighbourhood.

10:45 O'CLOCK A.M.

12. Zoning Application 89-134, Hamilton General Homes (1971) Ltd., owner, for a further modification to the "G-4" District regulations for properties at 25 Redmond Drive and 549 Stone Church Road East; Rushdale Neighbourhood.
13. Zoning Application 89-91, 822827 Ontario Inc. (A. DiSilvestro, E. Parente, N. Zaffiro), owner, for a further modification to the "G-1" District regulations for land at the north-west corner of Rymal Road East and Upper Wentworth Street; Barnstown Neighbourhood.

(a) Submission - Arthur Weisz, The Effort Trust Company.

11:00 O'CLOCK A.M.

14. Zoning Application 89-122, A. J. Karchi, owner, for a modification to the "C" District regulations for property at 773 Lawrence Road; Bartonville Neighbourhood.

(a) Submission - Mr. & Mrs. Leeson, 40 Rosedale Avenue.

15. City Initiative 89-F, Amendments to By-law No. 6593 with respect to the "RT-10" and "RT-20" District regulations.

16. Other Business.

17. Adjournment.

Wednesday, 1990 February 7
9:00 o'clock a.m.
Room 233, City Hall

The Planning and Development Committee met.

There were present: Alderman J. Smith, Chairman
Alderman F. Lombardo, Vice-Chairman
Alderman D. Christopherson
Alderman W. McCulloch
Alderman D. Ross
Alderman M. Kiss
Alderman D. Drury

Regrets: Mayor Robert M. Morrow - Civic Business
Alderman H. Merling - Vacation

Also present: Mr. A. Georgieff, Director of Local Planning
Mr. R. Karl, Traffic Department
Mr. J. Sakala, Planning Department
Mr. W. Wong, Building Department
Mr. M. Watson, Real Estate Division, Property
Department
Mr. D. Pickard, Building Department
Mr. K. Brenner, Regional Engineering Department
Mrs. N. Chapple, Architectural Historian,
L.A.C.A.C., Planning Department
Mr. D. Godley, Planning Department
Mrs. C. Lee-Morrison, Planning Department
Mr. J. Lakatos, Planning Department
Mrs. L. Lawrence, City Solicitor's Office
Mr. P. Mallard, Planning Department
Mr. C. Unelli, Regional Engineering Department
Mrs. Susan K. Reeder, Secretary

The Committee was in receipt of a report from the Building Commissioner dated 1990 January 31, respecting Demolition Permit Applications.

Demolition Permit
Applications.

The Committee approved the following:

That the Building Commissioner be authorized to issue demolition permits for the following properties:

- (a) 1019 Scenic Drive
- (b) 68 Royal Avenue

The Committee was in receipt of a report from the Building Commissioner dated 1990 January 23, respecting Fees for Applications to the Committee of Adjustment.

Fees for Applications
to the Committee of
Adjustment.

The Committee approved the following:

That By-law No. 87-350 prescribing a tariff of fees in relation to anticipated administrative costs be appropriately amended to reflect a fee increase from the present \$180. to \$250. for applications to the Committee of Adjustment effective 1990 April 2.

The Committee was in receipt of Private and Confidential Reports from the Director of Community Development respecting Ontario Home Renewal Programmes and Registration of Loans on the Tax Rolls.

Ontario Home Renewal
Programmes and
Registration of Loans
on the Tax Rolls.

The Committee approved that the properties in default of payment of their loan under the Ontario Home Renewal Programme should be placed on the Tax Rolls.

Wednesday, 1990 February 7
9:00 o'clock a.m.
Room 233, City Hall

The Planning and Development Committee met.

There were present: Alderman J. Smith, Chairman
Alderman F. Lombardo, Vice-Chairman
Alderman D. Christopherson
Alderman W. McCulloch
Alderman D. Ross
Alderman M. Kiss
Alderman D. Drury

Regrets: Mayor Robert M. Morrow - Civic Business
Alderman H. Merling - Vacation

Also present: Mr. A. Georgieff, Director of Local Planning
Mr. R. Karl, Traffic Department
Mr. J. Sakala, Planning Department
Mr. W. Wong, Building Department
Mr. M. Watson, Real Estate Division, Property
Department
Mr. D. Pickard, Building Department
Mr. K. Brenner, Regional Engineering Department
Mrs. N. Chapple, Architectural Historian,
L.A.C.A.C., Planning Department
Mr. D. Godley, Planning Department
Mrs. C. Lee-Morrison, Planning Department
Mr. J. Lakatos, Planning Department
Mrs. L. Lawrence, City Solicitor's Office
Mr. P. Mallard, Planning Department
Mr. C. Unelli, Regional Engineering Department
Mrs. Susan K. Reeder, Secretary

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Demolition Permit
Applications.

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Fees for Applications
to the Committee of
Adjustment.

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Ontario Home Renewal
Programmes and
Registration of Loans
on the Tax Rolls.

The Committee approved that the properties in default of payment of their loan under the Ontario Home Renewal Programme should be placed on the Tax Rolls.

The Planning and Development Committee -2- Wednesday, 1990 February 7

Budget and Schedule
of Payments
- Concession Street
Business Improvement
Area.

The Committee was in receipt of a report from the Director of Community Development dated 1990 January 31, respecting Budget and Schedule of Payments for the Concession Street Business Improvement Area.

The Committee approved the following:

- (a) That, the 1990 operating budget of the Concession Street B.I.A., as shown on the attached marked as Appendix "A", be approved in the amount of twenty-six thousand, sixty dollars (\$26,060.);
- (b) That, the City Solicitor be authorized and directed to prepare the requisite By-law pursuant to Section 217, the Municipal Act, R.S.O., 1980, to levy the 1990 Budget as referenced in (a) above; and,
- (c) That, the schedule of payments for 1990 be as follows:

March 01	\$6,000.
April 01	4,000.
June 01	6,000.
August 01	4,500.
October 01	5,560.

NOTE: 1989 Levy Arrears will be deducted from the first payment for 1990.

-Downtown
Promenade Business
Improvement Area.

The Committee was in receipt of a report from the Director of Community Development dated 1990 January 31, respecting Proposed Budget and Schedule of Payments for the Downtown Promenade Business Improvement Area.

The Committee approved the following:

- (a) That, the 1990 operating budget of the Downtown Promenade B.I.A., as shown on the attached marked as Appendix "B", be approved in the amount of one hundred and ninety-nine thousand, nine hundred and eighty dollars (\$199,980.);
- (b) That, the City Solicitor be authorized and directed to prepare the requisite By-law pursuant to Section 217, the Municipal Act, R.S.O. 1980, to levy the 1990 Budget as referenced in (a) above; and,
- (c) That, the schedule of payments for 1990 be as follows:

January 01	\$23,980.	February 01	\$16,000.
March 01	16,000	April 01	16,000.
May 01	16,000.	June 01	16,000.
July 01	16,000.	August 01	16,000.
September 01	16,000.	October 01	16,000.
November 01	16,000.	December 01	16,000.

NOTE: 1989 Levy Arrears will be deducted from the first payment for 1990.

- Jamesville Business
Improvement Area.

The Committee was in receipt of a report from the Director of Community Development dated 1990 January 31, respecting Proposed Budget and Schedule of Payments for the Jamesville Business Improvement Area.

The Committee approved the following:

- (a) That, the 1990 operating budget of the Jamesville B.I.A., as shown on the attached marked as Appendix "C", be approved in the amount of thirty-five thousand, four hundred and fifty dollars (\$35,450.);
- (b) That, the City Solicitor be authorized and directed to prepare the requisite By-law pursuant to Section 217, the Municipal Act, R.S.O. 1980, to levy the 1990 Budget as referenced in (a) above; and

The Planning and Development Committee -3- Wednesday, 1990 February 7

(c) That, the schedule of payments for 1990 be as follows:

February 01	\$15,450.
May 01	10,000.
August 01	10,000.

NOTE: 1989 Levy Arrears will be deducted from the first payment for 1990.

The Committee was in receipt of a report from the Director of Community Development dated 1990 January 31, respecting Proposed Budget and Schedule of Payments for the Westdale Village Business Improvement Area.

- Westdale Village
Business Improvement
Area.

The Committee approved the following:

(a) That, the 1990 operating budget of the Westdale Village B.I.A., as shown on the attached marked as Appendix "D", be approved in the amount of twenty-five thousand dollars (\$25,000.);

(b) That, the City Solicitor be authorized and directed to prepare the requisite By-law pursuant to Section 217, the Municipal Act, R.S.O., 1980, to levy the 1990 Budget as referenced in (a) above; and,

(c) That, the schedule of payments for 1990 be as follows:

February 01	\$ 6,250.
April 01	6,250.
June 01	6,250.
October 01	6,250.

NOTE: 1989 Levy Arrears will be deducted from the first payment for 1990.

The Committee was in receipt of a report from the Director of Community Development dated 1990 January 31, respecting Proposed Budget and Schedule of Payments for International Village Business Improvement Area.

- International
Village Business
Improvement Area.

The Committee approved the following:

(a) That, the 1990 operating budget of the International Village B.I.A., as shown on the attached marked as Appendix "E", be approved in the amount of sixty-five thousand dollars (\$65,000.);

(b) That, the City Solicitor be authorized and directed to prepare the requisite By-law pursuant to Section 217, the Municipal Act, R.S.O. 1980, to levy the 1990 Budget as referenced in (a) above; and,

(c) That, the schedule of payments for 1990 be as follows:

February 01	\$25,000.
May 01	20,000.
July 01	20,000.

NOTE: 1989 Levy Arrears will be deducted from the first payment for 1990.

The Committee was in receipt of a report from the Director of Community Development dated 1990 January 31, respecting Proposed Budget and Schedule of Payments for the Ottawa Street Business Improvement Area.

- Ottawa Street
Business Improvement
Area.

Alderman D. Ross declared a Conflict of Interest on this Item as his wife is a Business owner on Ottawa Street.

The Committee then approved the following:

The Planning and Development Committee -4- Wednesday, 1990 February 7

- (a) That, the 1990 operating budget of the Ottawa Street B.I.A., as shown on the attached marked as Appendix "F", be approved in the amount of eighty-five thousand dollars (\$85,000.);
- (b) That, the City Solicitor be authorized and directed to prepare the requisite By-law pursuant to Section 217, the Municipal Act, R.S.O., 1980, to levy the 1990 Budget as referenced in (a) above; and
- (c) That, the schedule of payments for 1990 be as follows:

March 01	\$42,500.
June 01	21,250.
September 01	21,250.

NOTE: 1989 Levy Arrears will be deducted from the first payment for 1990.

- Barton General
Business Improvement
Area.

The Committee was in receipt of a report from the Director of Community Development dated 1990 January 31, respecting Proposed Budget and Schedule of Payments for the Barton General Business Improvement Area.

The Committee approved the following:

- (a) That, the 1990 operating budget of the Barton General B.I.A., as shown on the attached marked as Appendix "G", be approved in the amount of six thousand dollars (\$6,000.);
- (b) That, the City Solicitor be authorized and directed to prepare the requisite By-law pursuant to Section 217, the Municipal Act, R.S.O., 1980, to levy the 1990 Budget as referenced in (a) above; and
- (c) That, the schedule of payments for 1990 be as follows:

April 01	\$ 2,000.
July 01	2,000.
October 01	2,000.

NOTE: 1989 Levy Arrears will be deducted from the first payment for 1990.

Revised Board of
Management
- Ottawa Street
Business Improvement
Area.

The Committee was in receipt of a report from the Director of Community Development dated 1990 January 25, respecting the Revised Board of Management for the Ottawa Street Business Improvement Area.

Alderman Ross declared a Conflict of Interest in this matter as his wife is being appointed on the Board of Directors for the Ottawa Street B.I.A.

The Committee approved the following:

- (a) That, By-law No. 87-147 appointing the Ottawa Street B.I.A. Board of Management, be amended to delete the following names:

C. Mirabella	Encore T.V. and Video
--------------	-----------------------

and add the following:

J. Driscoll	Price Busters Discount
L. Ross	Maggie's Ladies Wear

- (b) That, the City Solicitor be authorized and directed to amend By-law 87-147 pursuant to (a) above.

- Westdale Village
Business Improvement
Area.

The Committee was in receipt of a report from the Director of Community Development dated 1990 January 23, respecting the Board of Management for the Westdale Village Business Improvement Area.

The Committee approved the following:

- (a) That, By-law No. 87-147 appointing the Westdale Village B.I.A. Board of Management be amended to delete the following names:

M. Kane	Mary Ann's Gifts
D. Hurley	D. H. Fashions
J. Jennings	Five Seasons Travel

and add the following:

Y. Bernert	Woodland Leathers
D. Miklos Jr.	The Village F-Stop
S. McConnell	Boudoir Keepsakes of Westdale
B. Basadur	Cottonwood

- (b) That, the City Solicitor be authorized and directed to amend By-law No. 87-147 pursuant to (a) above.

The Committee was in receipt of a report from the Director of Community Development dated 1990 January 31, respecting the Board of Management for the Jamesville Business Improvement Area.

- Jamesville
Business Improvement
Area.

The Committee approved the following:

- (a) That, By-law No. 87-147 appointing the Jamesville B.I.A. Board of Management be amended to delete the following names:

D. Fraser
T. Monagimzada

and add the following:

G. Lipari
R. Corsini
R. Burridge

- (b) That, the City Solicitor be authorized and directed to amend By-law No. 87-147 pursuant to (a) above.

The Committee was in receipt of a report from the Director of Property dated 1990 January 29, respecting Authorization to Include Additional Partners on the City's Sale to Mercanti Management Inc., Parts 2 & 3, Plan 62R-10547 - Upper Ottawa Street.

Authorization to
include Additional
Partners on City
Sale - Upper
Ottawa Street.

The Committee approved the following:

That Section 8 of the 17th Report of the Planning and Development Committee as approved by City Council on 1989 July 25, be amended as follows:

- (a) The City's Offer to Purchase agreement dated 1989 June 20th, be amended by expanding the number of Purchasers from Mercanti Management Inc. to include Peter Mercanti, Morris Mercanti, Moore & Davis Enterprises Inc. and Arthur Glenn Bryant each as to 20% undivided interest as tenants in common.

The Committee was in receipt of a report from the Director of Property dated 1990 January 29, respecting Authorization to Allow the Transfer of Title to include Additional Partners in the City's Sale to Messrs. Sam, Peter and Morris Mercanti - Anchor Road - Parts 3 & 4, Plan 62R-5200.

- Anchor Road.

The Committee approved the following:

That Section 12 of the 16th Report of the Planning and Development Committee, as approved by City Council on 1988 July 26, be amended as follows:

The Planning and Development Committee -6- Wednesday, 1990 February 7

- (a) That approval be granted to allow the transfer of title in the City's deed 9495 from Sam, Peter and Morris Mercanti to Samuel, Peter, Morris Mercanti, Moore & Davis Enterprises Inc. and Arthur Glenn Bryant each as to as a 20% undivided interest, as tenants in common;
- (b) That the Purchasers' solicitor must prepare all necessary agreements and deed subject to the approval of the City Solicitor.
- (c) That any costs incurred by the City in this regard will be borne by the Purchasers.

Land Exchange -
City of Hamilton
& Starward Homes.

The Committee was in receipt of a report from the Director of Property dated 1990 January 29, respecting Land Exchange - City of Hamilton and Starward Homes Limited, Application for Inclusion in Land Titles, Part 1, 62R-10500.

The Committee approved the following:

- (a) That Starward Homes Limited be authorized to make an application to have the City owned lands described as Part 1, Plan 62R-10500 placed under the Land Titles System; and,
- (b) That the Mayor and the City Clerk be authorized and directed to execute the documentation prepared by Starward Homes Limited, provided that the content and form of same is satisfactory to the City Solicitor.

NOTE: Starward Homes Limited was given approval to include the subject City owned parcel, Block 1, with other Starward lands in Zoning Application 89-15 and Subdivision Application 88-05, pursuant to City Council's 1989 May 30th adoption of Section 9 of the 14th Report for 1989 of the Planning and Development Committee.

Cash Payment in
lieu of 5% Parkland
Dedication
- "Wentwal Estates".

The Committee was in receipt of a report from the Acting Commissioner of Engineering dated 1990 January 17, respecting Cash Payment In Lieu of 5% Parkland Dedication for "Wentwal Estates".

The Committee approved the following:

- (a) That Section 5 of the 26th Report of the Planning and Development Committee Report, as approved by City Council on 1989 November 14, be rescinded.
- (b) That the City of Hamilton accept the sum of \$66,900. as cash payment in lieu of 5% dedication in connection with "Wentwal Estates", Hamilton, this being the cash requirement under Section 50 of the Planning Act.

NOTE: This revised figure has been calculated as a result of the addition of Block 40 to the Subdivision.

These lands are located west of Upper Wentworth Street and north of Rymal Road in the Barnstown Neighbourhood, Hamilton.

Site Plan Control
Application DA89-74
- 1033 Main St. W.
(Columbia Secondary
School of Canada).

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 29, respecting Site Plan Control Application DA-89-74, for property at 1033 Main Street West (Columbia Secondary School of Canada).

The Committee approved the following:

That approval be given to Site Plan Control Application DA-89-74, by Columbia Secondary School of Canada, owners of lands known as 1033 Main Street West for a five (5) storey student residence subject to the following:

The Planning and Development Committee -7- Wednesday, 1990 February 7

- (a) Modification to the plan in relation to notes, dimension and parking layout as marked in red on the plans;
- (b) Submission of a revised grading plan to the satisfaction of the Commissioner of the Hamilton-Wentworth Engineering Department;
- (c) Submission of a revised landscape plan to the satisfaction of the Director of Local Planning, Planning and Development Department;
- (d) Finalization of By-law 89-220; and,
- (e) Incorporation of comments from Ontario Hydro regarding the noise abatement report and, grading of the subject land adjacent to the Ontario Hydro property.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 23, respecting Request to Discharge the Modified Subdivision Agreement for the Shopping Centre located at 530-550 Fennell Avenue East.

Request to Discharge
the Modified
Subdivision
Agreement - 530-550
Fennell Avenue East.

The Committee approved the following:

That approval be given to a request by Bassel, Sullivan and Leake, Solicitors for the owner of the property at 530-550 Fennell Avenue East, to discharge a modified subdivision agreement, registered on 1957 December 31, as Instrument No. 34335 HL and that the City Solicitor proceed accordingly.

NOTE: The modified subdivision agreement which was registered on 1957 December 31, has become outdated and does not recognize various alterations of the site which have subsequently been processed and controlled by the Site Plan Control procedure and By-laws No. 87-150, No. 87-223 and No. 79-276.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 29, respecting Site Plan Control By-laws to include the lands located on the north and south sides of Main Street West between Highway No. 403 and Queen Street South.

Site Plan Control
By-laws to include
lands on the north
and south sides of
Main Street West,
between Hwy.#403 and
Queen Street South.

The Committee approved the following:

That Site Plan Control By-laws No. 87-223 and No. 79-275, be amended to include the lands located on the north and south sides of Main Street West between Highway No. 403 and Queen Street South as outlined in the map attached hereto and marked as Appendix "H", and that the City Solicitor be directed to proceed with such action.

NOTE: The purposes of the By-law is to include the lands under Site Plan Control. Any development proposed along the Main Street corridor in this area would be required to submit various plans for approval. This action was a recommendation of the report entitled "City Entrance - Main Street West" which was accepted by City Council at its meeting of 1989 November 14.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 29, respecting C.A.P.I.C.'s Recommendations on the Proposed Perimeter Road Project.

C.A.P.I.C.
recommendations -
Proposed Perimeter
Road Project.

Alderman Christopherson spoke to this report and it was then moved by Alderman Christopherson, seconded by Alderman McCulloch and carried that the Planning and Development Committee advise Council that they endorse C.A.P.I.C.'s recommendation to undertake a Transportation Study.

The Committee then approved the following recommendation:

The Planning and Development Committee -8- Wednesday, 1990 February 7

- (a) That the recommendations of the Central Area Plan Implementation Committee, in their report dated 1990 January 22nd, respecting a Regional Transportation Study and the proposed Perimeter Road be forwarded to Regional Council for consideration.
- (b) That the City Clerk advise Regional Council that the Planning and Development Committee endorses C.A.P.I.C.'s recommendation on the need for a comprehensive Transportation Study to be undertaken.

C.A.P.I.C.
Appointment -
Alderman W.
McCulloch.

Alderman McCulloch spoke to the Committee and advised that he wishes to serve on the C.A.P.I.C. Committee, but that he will not be serving on the Executive Committee. It was then moved by Alderman Ross, seconded by Alderman Christopherson and carried to approve the following:

That Alderman W. McCulloch be appointed to serve on the Central Area Plan Implementation Committee.

Request for a waiver
from the require-
ments of a
Feasibility Study
and Impact Analysis
-lands west of Nash
Road, and north of
the C.N.R.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 29, respecting a Request for a Waiver from the Requirements of a Feasibility Study and Impact Analysis for City owned lands located west of Nash Road, and north of the C.N.R.

The Committee approved the following:

- (a) That the request for a waiver from the requirements of a Feasibility Study and Impact Analysis for lands located west of Nash Road, north of the C.N.R. be granted;
- (b) That the City Clerk be directed to inform the Council of the Regional Municipality of Hamilton-Wentworth regarding (a) above, and request that Regional concurrence be obtained; and,
- (c) That Site Plan Control By-law No. 79-275, as amended by By-law No. 87-223, be amended by including the subject lands.

NOTE: The Planning and Development Department has recently received a request for a waiver from the requirements of a Feasibility Study and Impact Analysis (Environmental Impact Statement) from the Regional Freeway Project Office, for City owned lands located west of Nash Road, north of the C.N.R., as shown on the attached map marked as Appendix "I". The Official Plan requires an Environmental Impact Statement for development proposals within Environmentally Sensitive Areas, or if requested, Council may grant a waiver, with the concurrence of Regional Council.

Proposed Demolition
- 114 Main St. W.

The Committee was in receipt of a report from the Secretary of the Local Architectural Conservation Advisory Committee dated 1990 January 31, respecting Proposed Demolition for property at 114 Main Street West.

The Committee received the following recommendation:

That the proposed demolition of the Dodsworth & Brown Funeral Home at 114 Main Street West not be opposed.

Feasibility Study -
St. Mark's Anglican
Church, 130 Bay
Street South.

The Committee was in receipt of a report from the Secretary of the Local Architectural Conservation Advisory Committee dated 1990 January 31, respecting Feasibility Study - St. Mark's Anglican Church, 130 Bay Street South.

The Committee agreed that the following resolution should be referred to the Director of Culture and Recreation.

That as part of the City's investigation into the possible restoration and re-use of St. Mark's Anglican Church located at 130 Bay Street South, the use of a feasibility study as per the attached procedures, be recommended.

The Planning and Development Committee -9- Wednesday, 1990 February 7

The Committee was in receipt of a report from the Secretary of the Local Architectural Conservation Advisory Committee dated 1990 January 31, respecting Custom House - National Historic Sites and Monuments Board Plaque.

Custom House -
National Historic
Sites and a
Monuments Board
Plaque.

The Committee approved the following:

That City Council approve the resolution, as shown on the attached Appendix "J", to support a request for the property located at 51 Stuart Street, Hamilton, from the owner, Don Warrener, for a National Historic Sites and Monuments Board plaque.

NOTE: LACAC, at its last meeting held in 1989 November, passed a recommendation to support Don Warrener's request for such a plaque.

The Committee was in receipt of a report from the Secretary of the Local Architectural Conservation Advisory Committee dated 1990 January 31, respecting the Preparation of a Sale Agreement for the Pigott Lobby windows.

Preparation of a
Sale Agreement
for the Pigott
Lobby windows.

The Committee approved the following:

That the City Solicitor be requested to prepare an agreement of sale between the City and Reemark, the owners of the Pigott-Sun Life buildings, for the Pigott Lobby stained glass windows, contingent on the following conditions:

- (a) That the heritage easement between the Ontario Heritage Foundation and Reemark, the property owners, be in place;
- (b) That the sale price of the stained glass windows is equivalent to their replacement value;
- (c) That the windows will be adequately protected against theft or vandalism, when in place, in accordance with accepted conservation standards;
- (c) That the windows will be insured for their replacement value by the property owners insurance policy, by means of a special rider;
- (e) That, if the windows are to be removed at any time in the future, the City of Hamilton retains the right of first refusal;
- (f) That the agreement of sale be registered on title; and
- (g) That the Heritage Hamilton Foundation be re-imbursed for their contribution (\$3,240.) for the purchase of these windows, and that the remaining monies from the sale be returned to the City (Reserve Fund for the Acquisition of Historic Properties).

The Committee was in receipt of a report from the Secretary of the Local Architectural Conservation Advisory Committee dated 1990 January 30, respecting Durand South (Markland St. area) - Heritage Conservation District Study.

Durand South
(Markland
Street area) -
Heritage
Conservation
District Study.

The Committee approved the following:

- (a) That the Planning Department be requested to consider including the Durand South (Markland St. area) Heritage District Study in the 1990 Work Programme;
- (b) That upon endorsement of the proposed District Study in the 1990 Work Programme that:

(b) Accessory Use:

- (i) One ground sign, wall sign or projection sign having an area of not more than 0.4m² non-illuminated or illuminated by non-flashing, indirect or interior means only, located at least 1.5m from the nearest street line in connection with the commercial use.
 - (ii) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1161, and that the subject lands on Zoning District Maps E-13 and E-14 be notated S-1161;
 - (iii) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Maps E-13 and E-14 for presentation to City Council;
 - (iv) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area;
 - (v) That the Stinson Neighbourhood Plan be amended by redesignating the subject lands from "Medium Density Apartments" to "Commercial".
- (b) That the amending by-law not be forwarded for passage by City Council until such time as a site plan has been approved by the Planning and Development Committee.

NOTE: The purpose of the by-law is to provide for a modification to the "E" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations for the property located at 18 West Avenue South.

The effect of the by-law is to permit the following uses:

- (i) Commercial within the existing building only:
 - (1.) A dental office;
 - (2.) Business and professional offices (excluding medical offices with the exception of a dental office); and,
 - (3.) An opticians establishment.
- (ii) Accessory:
 - (1.) One ground, wall, or projection sign not greater than 0.4m² in area, non-illuminated or illuminated by non-flashing, indirect or interior means only and no closer than 1.5m to the nearest street line.

ZA89-125 - 63 and
67 Malton Drive.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 29, respecting Zoning Application 89-125, for properties at 63 and 67 Malton Drive.

Report of the circularization was given as follows:

58 notices sent	9 in favour	3 opposed
-----------------	-------------	-----------

Mr. Richardson, owner of the property at 63 Malton Drive, co-applicant spoke on why this application should be approved. He indicated that sewers have been installed along Christie and the owners have hooked up their own houses and their rear properties in the hope of future development of their rear lands. He questioned where the denial recommendation for their application leaves them now.

Mr. Stockton, owner of property at 67 Malton Drive and a co-applicant for the Zoning Application spoke to the Committee on the need to have this application approved. He advised that they no longer need a large lot and that they feel that many of their neighbourhood homes would be quite willing to separate their large lots as well.

Discussion ensued on this matter and Alderman Ross requested that this matter be tabled and that a Public meeting be called of the owners of property in the neighbourhood to discuss the possibilities of development in this area.

Accordingly, the Planning and Development Committee tabled this application in order that a Public meeting could be held.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 30, respecting an amended Zoning Application 89-101, for property at 1334, 1340, 1342, and 1348 Upper Sherman Avenue.

ZA89-101 -
1334, 1340, 1342,
1348 Upper Sherman
Avenue.

The Committee was in receipt of a Letter of Submission from Mr. and Mrs. D. DiPasquale, 20 Ruby Street.

The Committee was also in receipt of a Submission from Mr. John A. Parente, Solicitor for the applicant requesting that this application be tabled.

The Committee was also in receipt of a Letter from Alderman J. Gallagher, Ward 7, requesting that this application be tabled.

The Committee then agreed that this application be tabled.

There being no further business, the meeting then adjourned.

Adjournment.

Taken as read and approved,

ALDERMAN J. SMITH, CHAIRMAN
PLANNING AND DEVELOPMENT COMMITTEE

Susan K. Reeder
Secretary
1990 February 7

FOR ACTION

2.

REPORT TO: Mrs. S. K. Reeder
Secretary, Planning and Development Committee

FROM: Mr. Len C. King, P. Eng.
Building Commissioner

DATE: 1990 March 1
COMM FILE:
DEPT FILE:

SUBJECT: Demolition

RECOMMENDATION:

That the Building Commissioner be authorized to issue demolition permits for the following properties: -

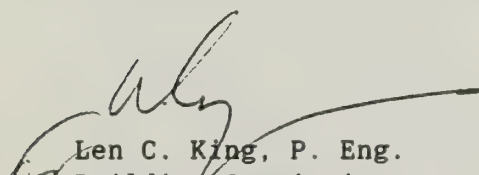
- a. 240 Quigley Road
- b. 244 Quigley Road

FINANCIAL IMPLICATIONS: (IF NONE, STATE N/A)

N/A

BACKGROUND:

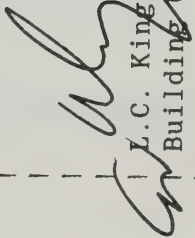
For background information see attached sheet.


Len C. King, P. Eng.
Building Commissioner

DEMOLITION CONTROL

CATEGORY "A" - PROPOSED USE OF LAND IS PERMITTED BY PRESENT ZONING

ITEM	ADDRESS	PRESENT USE	PROPOSED USE	LOT SIZE	OWNER	ZONE	RECOMMENDATION
A.	240 Quigley Rd.	S.F.D.	Multiple Dwelling Residential	100' X 165'	Nestex Development Ltd.	"DE/S-884b"	It is recommended that Committee approve demolition.
3.	244 Quigley Rd.	S.F.D.	Multiple Dwelling Residential	50' X 165'	Nestex Development Ltd.	"DE/S-884b"	It is recommended that Committee approve demolition.


 L.C. King, P. Eng.,
 Building Commissioner

~~L.C. King, P. Eng.,
Building Commissioner~~

FOR ACTION

2b.

REPORT TO: Mrs. S. K. Reeder
Secretary, Planning and Development Committee

FROM: C. J. Coutts, Secretary
Local Architectural Conservation
Advisory Committee

DATE: 1990 February 28

COMM FILE:
DEPT FILE:

SUBJECT: DEMOLITION PERMIT - 270 - 280 KING STREET EAST

RECOMMENDATION:

That no demolition permit be issued for the properties located at 270-280 King Street East until such time as the owner obtains a building permit. The demolition permit could then be issued in accordance with S33(6) of the Planning Act.

C. Coutts

FINANCIAL IMPLICATIONS: (IF NONE, STATE N/A)

N/A

BACKGROUND:

The owner of these properties has just applied for demolition permits (one for 260 King Street East and one for the two adjacent buildings at 266-8 and 270-80). In May 1989, the previous owner applied for a demolition permit for 260 and 266-8. LACAC then recommended that the 3-storey commercial/residential building at 266-8 King Street East be placed under demolition control. This recommendation was approved by Council in August 1989. The current application includes the 1911 St. Deny's Apartments, a long three-storey apartment building with stores on the ground floor. The provisions of the Demolition Control by-law could also be applied to this building, because of its residential use.

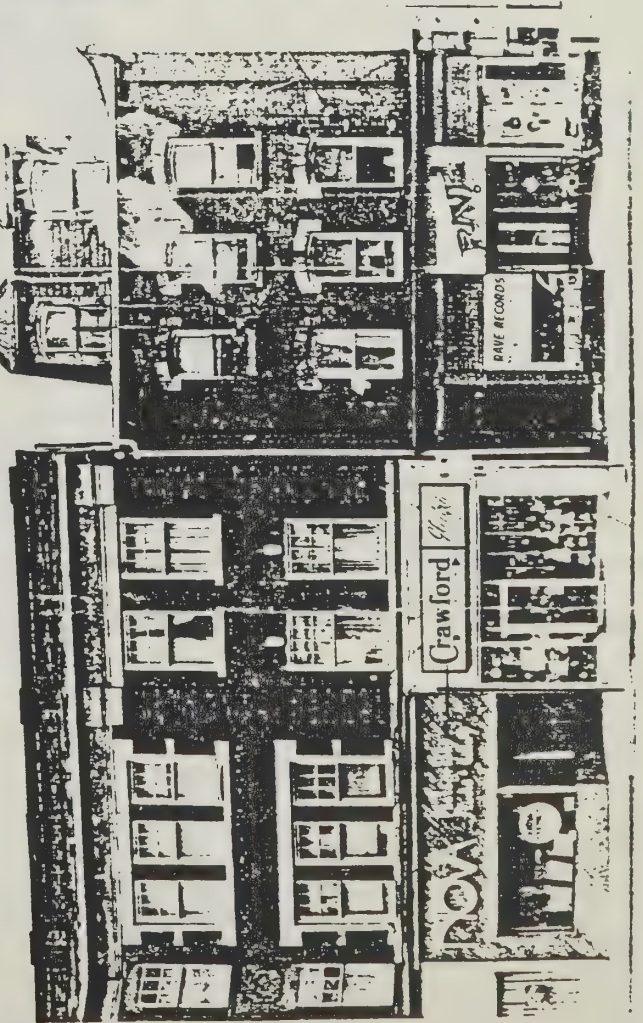
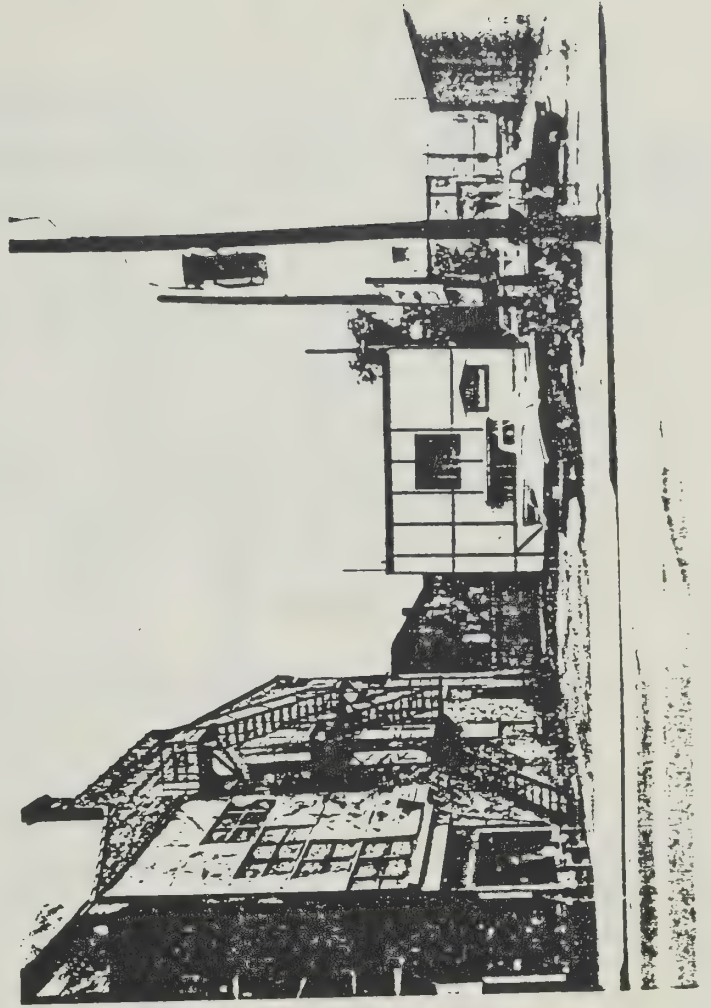
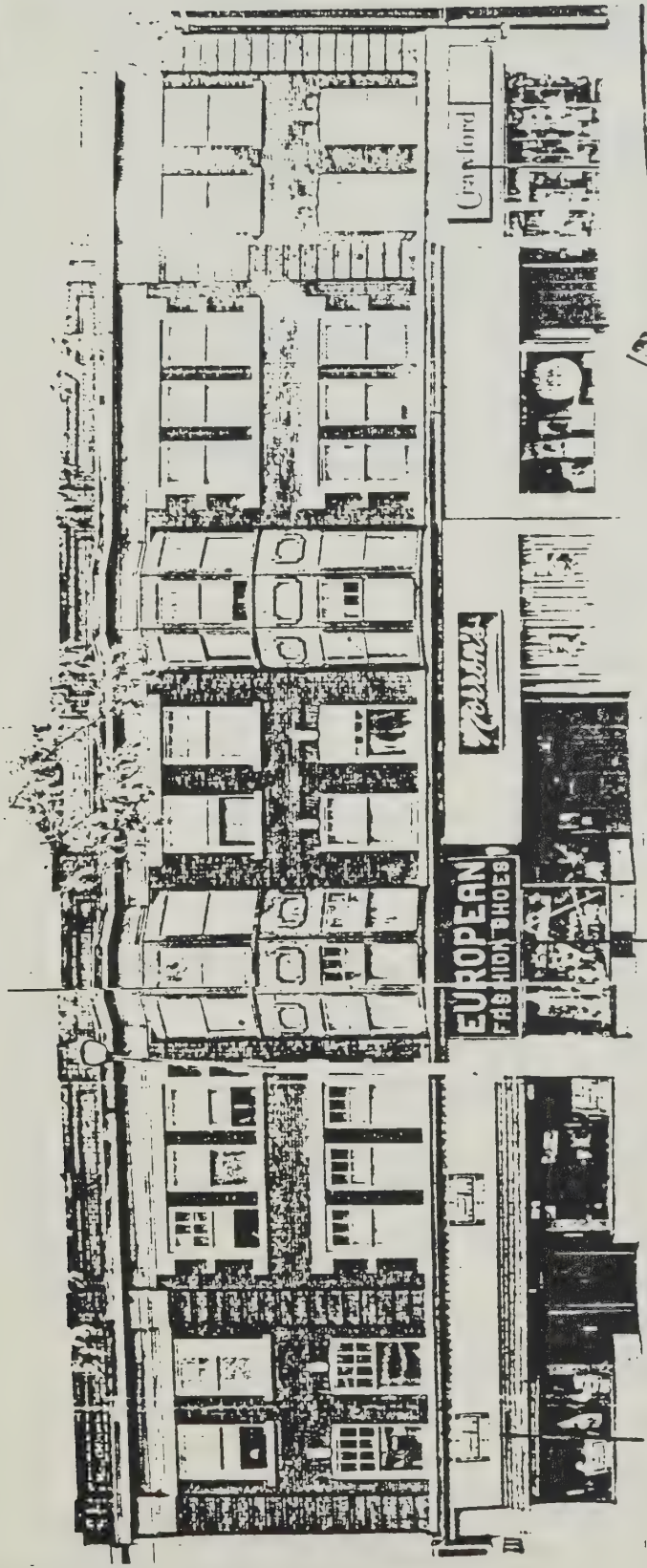
Last November the owner submitted to the Planning Department a conceptual sketch of a proposed new commercial/residential building consisting of a new three-storey front section to accommodate stores and offices or a parking garage above with a set-back 10-storey residential block behind. A new building of this scale would require a zoning amendment.

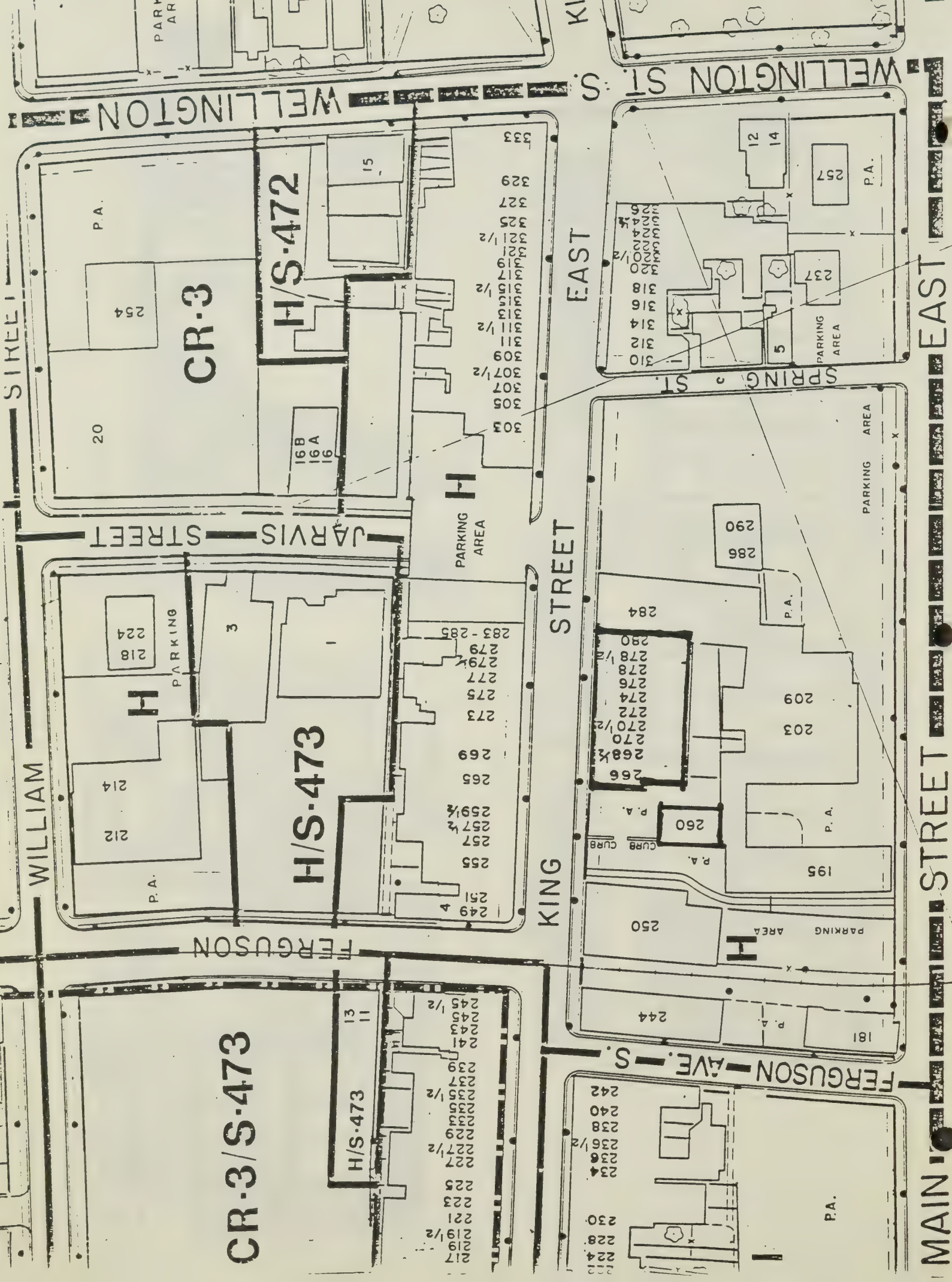
There are relevant Official Plan and Neighbourhood Policies (see attached Planning Information) which support the retention of existing buildings of heritage value, in this case the two "listed" buildings at 266-8 and 270-80 King Street East.

c.c. Mr. A. Georgieff, Director of Local Planning
Mr. L. King, Building Commissioner
Mrs. N. Chapple, Planning Department

Attached

20-280





WILLIAM STREET

WILLIAM STREET

JARVIS STREET

WELLINGTON ST. S.

CR-3/S-473

H/S-473

CR-3

H/S-472

H/S-473

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KING STREET

KING STREET

FERGUSON AVE. S.

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SPRING ST.

WELLINGTON ST. S.

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EAST

SPRING ST.

WELLINGTON ST. S.

WELLINGTON ST. S.

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WELLINGTON ST. S.

EAST

MAIN STREET

MAIN STREET

PLANNING INFORMATION

266-268, 270-280 King Street East

DATE: February 1990

HERITAGE STATUS: Listed on the Inventory

NEIGHBOURHOOD: Beasley

ZONING: "H" District (Community Shopping and Commercial, etc.)

Maximum permitted building height: 4 storeys or 8 storeys where side yards of not less than 3.0 metres are provided.

Owner has indicated his intention to apply for rezoning to permit a 10-storey residential block set back behind a three-storey facade (110 condominiums plus 28,000 square feet of retail/office space).

SITE PLAN CONTROL: Not under site plan control.

OFFICIAL PLAN POLICIES: Designated "Central Policy Area" in the Official Plan (Schedule "A" - Land Use Concept).
Primary uses permitted: commercial, residential, light industrial, open space, major institutional.

Policy A.2.8.9 encourages the preservation and rehabilitation of buildings of historical and/or architectural value.

Subject properties also located within **Special Policy Area 3** (Schedule "B" - Special Policy Areas), which is intended to promote and protect housing in close proximity to the downtown.

NEIGHBOURHOOD PLAN POLICIES: Designated "**Commercial**" in the approved neighbourhood plan.

Subject properties are within the area designated "**Downtown Core**" in the Central Area Plan, which encourages:

- the enhancement of existing commercial areas in the Downtown Core.
- a mix of commercial, residential, and institutional uses.
- mixed office/retail and residential buildings.
- the consolidation of existing commercial development through infilling, intensification and rehabilitation.
- residential development and the conversion of non-residential buildings to residential use, particularly where commercial space is underutilized.
- the establishment of an eastern anchor on King Street East to link activities at the centre of the Downtown Core with Wellington Street (e.g. major retail/office complex).

Section 4.9.2 of the Central Area Plan also encourages the preservation of heritage buildings and streetscapes, by means of designation under Parts IV or V of the Ontario Heritage Act, heritage and other funding programs, planning incentives and controls (including site plan and demolition control); specifically encourages the adaptive re-use of existing building stock and the integration of old and new construction as an alternative to demolition.

DEMOLITION CONTROL:

266-268 King Street East placed under demolition control by City Council in July 1989, following the owner's submission of an application to demolish the building.

FOR ACTION

3.

REPORT TO: Planning and Development Committee

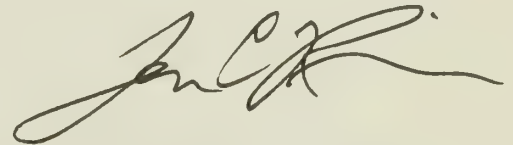
FROM: L. King, P. Eng.
Building Commissioner

DATE: 21 February 1990
COMM. FILE:
DEPT. FILE: 90.2.4.2.1

SUBJECT:

1990 Annual Conference of the Ontario Association of Committees
of Adjustment

RECOMMENDATION:



That two members of the Committee of Adjustment be authorized to attend the 1990 Annual Conference of the Ontario Association of Committees of Adjustment and Consent Authorities to be held for 3 days in June in Sault Ste. Marie, Ontario at an expense not exceeding \$1000.00 each to be charged to Account No. CH 55201 10010. Legislative Travelling.

FINANCIAL IMPLICATIONS: (IF NONE, STATE N/A)

BACKGROUND:

The above-noted conference is an educational conference of mutual benefit to all members across the Province.

FOR ACTION

4a.

REPORT TO:

The Planning and Development Committee

FROM:

Len King, P. Eng.
Building Commissioner

DATE: March 1, 1990

COMM. FILE:

DEPT. FILE:

SUBJECT:

Demolition - 266 - 280 KING STREET EAST

RECOMMENDATION:

That the Demolition Permit be approved subject to Demolition Control as recommended by L.A.C.A.C.

FINANCIAL IMPLICATIONS: (IF NONE, STATE N/A)

N/A

BACKGROUND:

The subject property is proposed to be developed in conjunction with 260 King Street East. The application for a zoning change has been made to permit a joint commercial residential development of approximately 10 stories in height.


Len C. King, P. Eng.
Building Commissioner

FOR ACTION

REPORT TO: SUSAN K. REEDER, SECRETARY OF THE
PLANNING AND DEVELOPMENT COMMITTEE

FROM: J. D. THOMS
COMMISSIONER
PLANNING AND DEVELOPMENT

DATE: 1990 FEBRUARY 23
COMM FILE:
DEPT FILES: SA-89-34
25T-89030

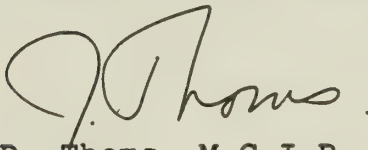
SUBJECT

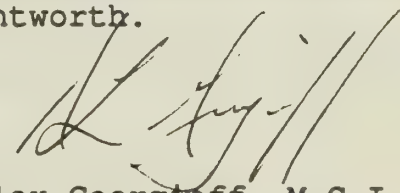
Proposed Draft Plan of Condominium.

RECOMMENDATION

That approval be given to Application SA-89-34 "Krystle Manor" Nestex Developments Ltd., owner, to establish a draft plan of condominium located at the west side of Quigley Road south of Albright Road, subject to the following conditions:

1. That this approval apply to the Plan prepared by A. J. Clarke and Associates Ltd., dated November 29, 1989.
2. That the plan be revised to show modifications as required for truck manoeuvring.
3. That the owner satisfy all financial requirements of the Regional municipality of Hamilton-Wentworth.


J. D. Thoms, M.C.I.P.
Commissioner
Planning and Development


Alex Georgieff, M.C.I.P.
Director - Local Planning

FINANCIAL IMPLICATIONS:

N/A

BACKGROUND

Owner

Nestex Developments Ltd., Hamilton, Ontario.

Surveyor

A. J. Clarke and Associates Ltd., Hamilton, Ontario.

Proposal

The owner is in the process of constructing a building with 22 apartment units as a condominium project.

Existing Development Controls

Hamilton-Wentworth Official Plan - the lands are identified as "Existing Development" within the "Urban Policy Area". The proposal complies.

City of Hamilton Official Plan - the lands are designated "Residential". The proposal complies.

Neighbourhood Plan - the lands are designated for "Attached Housing". The proposal complies.

Zoning - the lands are zoned "RT-20" (Townhouse and Maisonettes) District. The proposal complies.

Niagara Escarpment - the lands are not within the Development Control Area, therefore the regulations do not apply.

COMMENTS FROM CIRCULATION;

The following agencies have advised they they have no comment or objection toward to proposal:

- City Building Department
- City Traffic Department
- Regional Economic Development Department
- Ministry of Industry and Tourism
- Ministry of Transportation
- Ministry of the Environment
- Ministry of Natural Resources
- Hamilton Region Conservation Authority
- Ontario Hydro, (subject to electrical supply),
Union Gas and Bell Canada.

The Hamilton-Wentworth Department of Engineering has submitted the following comments and recommendations:

RECOMMENDATIONS:

- 1) The owner must comply with all the Region's financial and engineering requirements.

FOR YOUR INFORMATION:

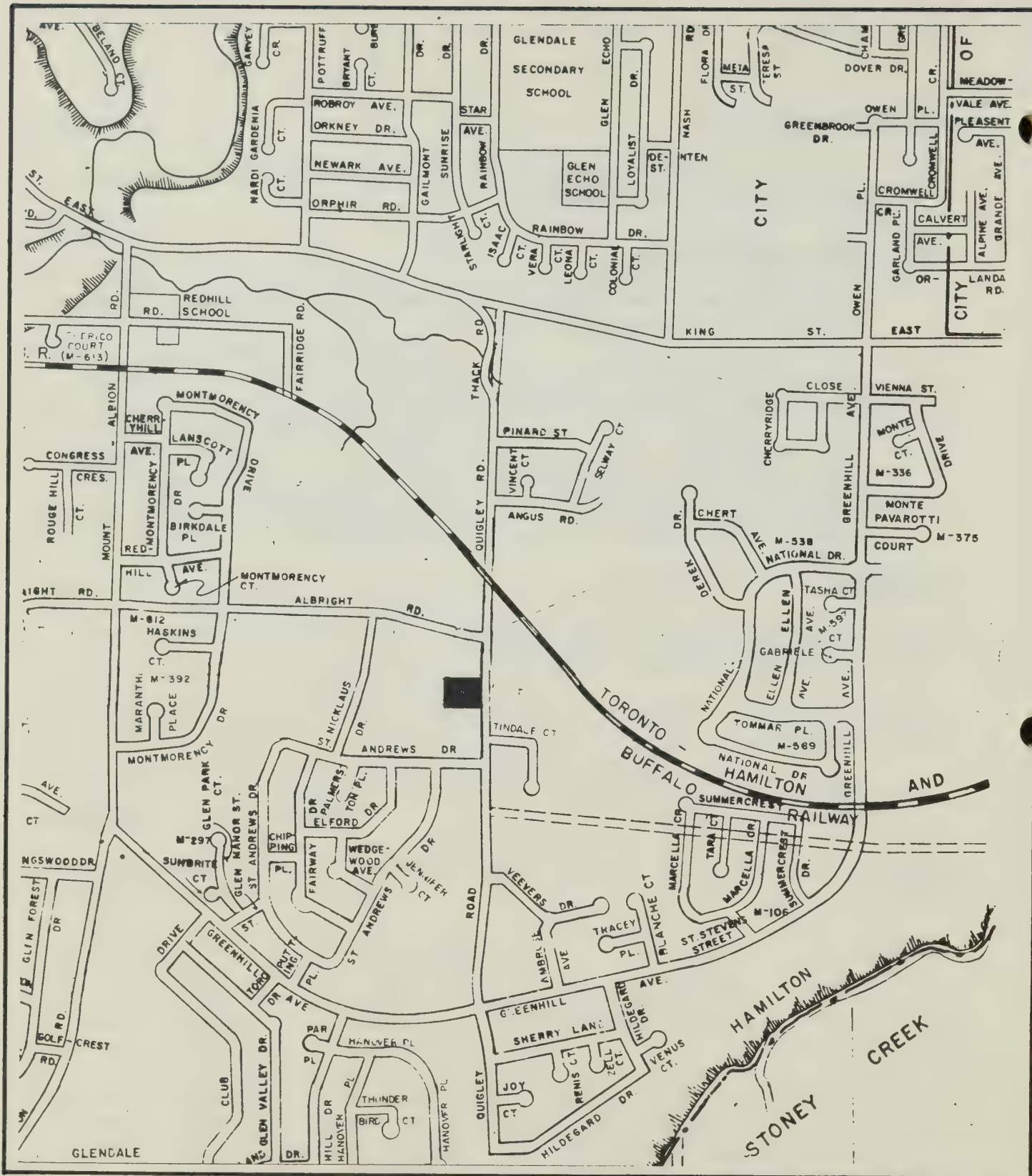
- 1) The proposed development can be serviced to the existing watermain on Quigley Road.
- 2) Adequate storm and sanitary sewer servicing is available on Quigley Road.
- 3) The submitted plan, as prepared by A. J. Clarke and Associated Ltd. and dated November 30, 1989, is satisfactory to the Department of Engineering, subject to the above noted comments and recommendations.

COMMENTS:

1. The conformity of the proposal with the Official Plans and Zoning By-law is noted.
2. No commenting agency has objected to the plan of condominium.
3. The owner received Site Plan Approval under DA-77-100 on February 7, 1990.

JLS:dc
Encl.

Action

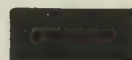


Location Plan For

Krystle Manor
PART OF LOT 30 - CON. 4
CITY OF HAMILTON

Regional Municipality of Hamilton-Wentworth
Planning and Development Department

Legend



PROPOSED CONDOMINIUM

North



Scale

1" = 1000'

Reference File No.

25CDM-89030

Date

DEC. 21, 1989

Drawing No.

ST ANDREWS DRIVE

6

FOR ACTION

REPORT TO: Mrs. S. Reeder
Secretary, Planning and Development Committee

FROM: C. J. Coutts, Secretary
Local Architectural Conservation
Advisory Committee

DATE: 1990 February 28

COMM FILE:

DEPT FILE:

SUBJECT: MANDATORY ATTENDANCE AT LACAC TECHNICAL WORKSHOPS -
RESOLUTION BY CAMBRIDGE CITY COUNCIL

RECOMMENDATION:

- a) That the City endorse the attached resolution adopted by Cambridge City Council respecting mandatory attendance at LACAC Technical Workshops; and,
- b) That a copy of City Council's endorsement of this resolution be forwarded to Ms. Mary Lou Evans, LACAC Advisor, Ministry of Culture and Communications.

NOTE: The Cambridge resolution requests the reduction in the number of LACAC members required to attend the Ministry of Culture and Communications' Technical Workshops from three to one. Currently a minimum of 3 LACAC members must attend these Workshops in order for the Municipality to qualify for the provincial Designated Property Grant Program.

C. J. Coutts

FINANCIAL IMPLICATIONS: (IF NONE, STATE N/A)

N/A

BACKGROUND:

Currently, it has been a requirement that a minimum of three (3) members of area Local Architectural Conservation Advisory Committees attend Technical Workshops sponsored by the Ministry of Culture and Communications. Since the majority of the Committee's makeup is on a volunteer basis, it is often not possible for three (3) members to attend.

- 2 -

The Local Architectural Conservation Advisory Committee at its meeting held 1990 February 26 agreed to endorse the attached resolution as it was felt that one (1) representative at these workshops is a more reasonable request.

c.c. Mr. A. Georgieff, Director of Local Planning
Mrs. N. Chapple, Planning Department

Attached



The Corporation
of the City
of Cambridge

Local Architectural Co
P.O. Box 669,
Cambridge, Ontario N1F
Telephone: (519) 623-1

February 14, 1990
File: AC-65

Mrs. Dianne Dent
LACAC Chairperson
City of Hamilton
c/o City Clerk
71 Main Street West
Hamilton, Ontario
L8N 3T4

Dear Mrs. Dent:

Re: Mandatory Attendance at Technical Workshops

At their meeting of December 14, 1989 the Cambridge Local Architectural Conservation Advisory Committee discussed the Designated Property Grant agreement as signed by the Corporation of the City of Cambridge and the Ministry of Culture and Communications, specifically article 3. The Committee made the following recommendation which was subsequently approved by Council on January 22, 1990:

WHEREAS pursuant to an agreement entitled "Designated Property Grant Agreement:", Article 3, a specific number of LACAC members must attend one seminar annually as prescribed by the Ministry of Culture and Communications;

AND WHEREAS the Ministry has requested a minimum of three LACAC members and one staff member to attend a Technical Workshop in the Fall;

AND WHEREAS the members of LACAC are volunteers and, as such, their time commitments do not always coincide with that of the Ministry's workshop schedule;

THEREFORE the Ministry of Culture and Communications be requested to reduce the minimum number of LACAC representatives to one, plus one municipal staff member

AND THAT this resolution be circulated to all LACAC's.

FOR ACTION

7b.

REPORT TO: Mrs. S. K. Reeder
Secretary, Planning and Development Committee

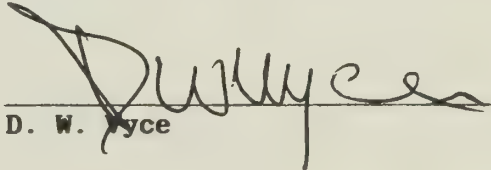
FROM: Mr. D. W. Vyce
Director of Property

DATE: 1990 February 28
COMM FILE:
DEPT FILE: 20.1.262
(2738)

SUBJECT: Release of Building Covenants - James Miles
1154 Rymal Road East - Lot 5, Plan 62M-352
- Hamilton Mountain Industrial Park #3 -

RECOMMENDATION:

That the City Solicitor be authorized to prepare a Quit Claim Deed from the City of Hamilton to the present owner of 1154 Rymal Road East, Hamilton, Ontario to release the property from the construction covenants to the City as contained in deed instruments 193509 L.T. and 193510 L.T., registered July 30, 1987.


D. W. Vyce

FINANCIAL IMPLICATIONS: - N/A

BACKGROUND:

In adopting Item 14 of the 20th Report of the Planning and Development Committee, City Council on September 30, 1986 authorized the sale of Lot 5, Registered Plan 62M-352, to James Miles. The transaction was completed on January 28, 1987. On December 4, 1989, the proposed building was completed.

This department supports the request of the owner's solicitor, Mr. Ken Volles of Pallett, Valo, Barristers and Solicitors, that the City of Hamilton release the construction covenants contained in deed numbers 193509 L.T. and 193510 L.T. to clear the title.

All the covenants as noted above have been fulfilled.

c.c. - Mr. P.R.A. Hooker, Acting City Solicitor

FOR ACTION

8.

REPORT TO: Mrs. S. K. Reeder
Secretary, Planning and Development Committee

FROM: Mr. D. W. Vyce, Director of Property and
Co-ordinator of Lloyd D. Jackson Square

DATE: 1990 February 28
COMM FILE:
DEPT FILE: 80.3.441
(2719)

SUBJECT: **Proposed Expansion of Retail Space - Lloyd D. Jackson Square
York Boulevard Frontage - Restaurant and Health Club -**

RECOMMENDATION:

1. (a) That the City enter into a Lease Amending Agreement dated February 24, 1990 with Second Phase Civic Square Limited, Yale Properties Ltd. and Greater Hamilton Developers Limited in the form attached hereto as Appendix "A" which amends the Ground Lease between the City, Second Phase and Yale dated November 19, 1975 and registered on August 16, 1976 and grants formal approval to Second Phase, Yale and Greater Hamilton to their proposed plans to alter the Improvements as defined in the Ground Lease by expanding same over a portion of Additional Lands (situated on the south side of York Boulevard between Copps Coliseum and the Central Library) to create retail space to house a restaurant at grade level and a health club at the basement level and that the Mayor and City Clerk be authorized to execute this Agreement on behalf of the City.

By entering into this Agreement, the City in its capacity as Lessor under the Ground Lease hereby grants its approval:

- (i) to the plans and drawings of the said alterations and expansion of the retail space contemplating the creation of an additional building coverage of 13,987 square feet to house a restaurant and health club,
- (ii) to the construction of the alterations in accordance with the said plans and the Ground Lease, provided the improvements are not commenced until the Agreement is fully executed and registered,
- (iii) to the changes to the external appearance of the Improvements resulting from the expansion of the retail space,
- (iv) to diminish the area of Publicly Useable Open Space of Second Phase by 6,500 square feet, to provide a new plan showing the revised Publicly Useable Open Space and to increase the Net Rentable Area of the Improvements of Second Phase by 13,987 square feet.

(b) That the Ground Rent payable by Second Phase and Yale to the City in accordance with the terms of the Ground Lease be increased by \$6,713.76 per annum as a result of the expansion of the retail space by 13,987 square feet.

2. That The Corporation of the City of Hamilton enter into an Easement Agreement dated February 13, 1990 incorporating the provisions set out in a Draft Agreement annexed hereto as Appendix "B" with Second Phase Civic Square Limited for the purpose of the City granting to Second Phase an easement to enter onto and use the truck route (Part 1, 62R-8136) beneath Copps Coliseum as a right-of-way for vehicular access only in a one way direction for the purpose of providing access to the loading dock of Second Phase adjacent to the new restaurant/health club. The easement will be enjoyed and used during the balance of the term of the Ground Lease to Second Phase less one day, namely commencing on the date hereof and ending on October 30, 2069. The City shall operate, maintain and repair the truck route with the costs to be shared amongst the users. It is further recommended that the Mayor and City Clerk be authorized to execute this Agreement.
3. That The Corporation of the City of Hamilton enter into an Easement Agreement dated February 8, 1990 incorporating the provisions set out in a Draft Agreement annexed hereto as Appendix "C" with Fourth Phase Civic Square Limited for the purpose of the City granting to Fourth Phase an easement to enter onto and use the truck route (Part 1, 62R-8136) beneath Copps Coliseum as a right-of-way for vehicular access only in a one-way direction for Fourth Phase and its suppliers to have access to its truck loading dock. Furthermore, the City agrees that the Lessee shall have the right to have cars exit from Fourth Phase's existing parking garage exit door into the truck route for egress to York Boulevard. The City and Fourth Phase agree that when it is mutually determined by the City and Fourth Phase that there is an unusual problem in the truck route (such as security, excessive traffic, Copps Coliseum shows, etc.) the said parking garage exit door will be closed temporarily to prohibit cars from exiting into the truck route.

The City shall operate, maintain and repair the truck route with the costs to be shared amongst the users.

Fourth Phase agrees that it does not have vehicular access easement rights over lands used by Copps Coliseum for its loading dock and parking area. (Parts 2 and 3, Plan 62R-8136)

4. That The Corporation of the City of Hamilton enter into an Easement Agreement dated February 12, 1990 incorporating the provisions set out in a Draft Agreement annexed hereto as Appendix "D" with Second Phase Civic Square Limited for the purpose of granting to the City an easement to enter onto and use a portion of land leased to Second Phase (Part 4, Plan 62R-8136) as a right-of-way for vehicular access only in a one way (east to west) direction. The vehicular access route is to be used for trucks and other vehicles delivering or removing goods to and from the City's Library/Farmer's Market Complex.

The easement will be enjoyed and used during the term of the Ground Lease to Second Phase less one day namely, commencing on the date hereof and ending on October 30, 2069.

It is further recommended that the Mayor and City Clerk be authorized to execute this Agreement.

5. That The Corporation of the City of Hamilton enter into an Easement Agreement dated February 26, 1990 incorporating the provisions set out in a Draft Agreement annexed hereto as Appendix "E" with Second Phase Civic Square Limited for the purpose of the City granting to Second Phase an easement to enter onto and use the truck route along the rear of the Library/Farmer's Market Complex as a right of way for vehicular access only in a one way direction commencing at the easterly limit of the City's truck route and continuing along the route to connect with the Second Phase truck route for the purpose of using a loading dock or docks which may abut the Second Phase truck route in the future. The easement will be enjoyed and used during the balance of the term of the Ground Lease to Second Phase less one day, namely commencing on the date hereof and ending on October 30, 2069. The City shall operate, maintain and repair the truck route with the costs to be shared amongst the users. It is further recommended that the Mayor and City Clerk be authorized to execute this Agreement.


D. W. Vyce

FINANCIAL IMPLICATIONS: (IF NONE, STATE N/A)

The City will receive \$6,713.16 per annum as rent for the additional lands being leased to Second Phase Civic Square Limited.

BACKGROUND:

In adopting Section 7 of the 16th Report for 1989 of the Planning and Development Committee, City Council on June 27, 1989 granted conditional approval to Second Phase Civic Square Limited to expand the retail space of the L.D.Jackson Square along the York Boulevard frontage on a parcel of land currently vacant, lying immediately west of the Central Library, the expansion contemplating the creation of Restaurant space at grade level and a Health Club use at the basement level, with the overall development containing 13,987 square feet. This preliminary approval was given subject to Second Phase:

- (i) complying with the requirements of the Ground Lease including additional ground lease payment, if any,
- (ii) complying with all Federal, Provincial, Regional and Municipal laws, by-laws requirements and regulations,
- (iii) providing the detailed plans and drawings for approval in accordance with the Ground Lease,
- (iv) executing any amendments to the Ground Lease, if formal amendments prove necessary.

During the past two months, the City has been actively negotiating with Second Phase and its lawyers with a view to resolving all of the outstanding issues between us, completing the documentation necessary to effect the revisions to the Ground Lease and completing other outstanding Agreements between the City and various L.D.Jackson Square companies relative to the overall Square development and the Truck Tunnels (Copps Coliseum and Library/Farmer's Market) in particular.

This report and the recommendations contained therein will address the issue of the retail space expansion plans and the finalization of the agreements relative thereto.

1. Lease Amending Agreement

This Agreement between the City, Second Phase, Yale and Greater Hamilton is required to formally amend the Ground Lease between the parties dated November 19, 1975 and registered on August 16, 1976.

The expansion will result in Second Phase Civic Square Limited paying additional ground rent to the City for the greater square footage by rentable space to be constructed. The additional ground rent amounts to \$6,713.76 per annum based on a rate of \$.48 per square foot per annum in accordance with the terms and conditions of the Ground Lease.

Detailed plans and drawings have been provided to our office in accordance with the terms and conditions of the Ground Lease. Plans have also been submitted to the Building Department for the purpose of obtaining a Building Permit.

Comments on the plans have been solicited from various Civic Departments and the three occupiers of City property surrounding the Restaurant/Health Club site -- the Central Public Library and Copps Coliseum and the Hamilton Farmer's Market staff.

The Public Library and Farmer's Market staff expressed concern that the new Restaurant/Health Club would have access to the Library/Farmer's Market through a doorway at the basement level of Second Phase to be constructed with its Health Club alterations. Their concern revolves around a loss of security to their premises during non business hours in particular. The issue has been resolved however with agreement by the principals of L.D.Jackson Square to erect at their cost a second overhead security door within the tunnel so as to prevent entry to the City's premises.

Copps Coliseum have requested additional security lighting to be installed along the western exterior face of the new building and asked that a fire hose cabinet be relocated in the basement level. L.D.Jackson Square has complied with the requests.

The Planning Department has noted that the proposal makes no provision for a future (+15) pedestrian bridge connection across York Boulevard and state that "since development of Jackson Square is expanding towards York Boulevard where The Central Area Plan anticipates the bridge link, provision should be made for the future possible connection of such a facility".

I am well aware the proposal does not call for a (+15) connection to the building. At the moment, there is no development located on the north side of York Boulevard opposite the proposed restaurant site and none contemplated that I am aware of. The position of Jackson Square is such that if the City desires a bridge at this location sometime in the future, then the issue could be dealt with at that time. A suggestion was made that a supporting column erected within the road allowance could be used to support a bridge in the future. The developer is adamant that he will not make provision for a bridge connection to his development at this time.

I concur with the views of the developer on this matter but feel the Committee should be made aware of both sides of the issue.

The Ground Lease requires Council approval to effect this alteration and expansion of the premises prior to commencement of any alterations for the purpose of this expansion. The documentation has now been developed in final form and has been approved by Second Phase, Yale and Greater Hamilton who are being asked to enter into this Amending Agreement.

Although the City has the right under the Ground Lease to require a performance of contract bond with respect to alterations, the requirement is a discretionary one. In this particular instance both the City Solicitor and myself are recommending that no performance bond be required.

2. Easement Agreement to Second Phase Civic Square Limited
- Copps Coliseum Truck Tunnel -

This Agreement grants an easement over the Copps Coliseum Truck Tunnel to Second Phase Civic Square Limited. The Restaurant/Health Club building proposes the establishment of a new truck loading dock to service the new premises. Vehicles serving the new premises will enter the Copps Coliseum Truck Tunnel on Bay Street, deliver goods at the loading dock and exit via York Boulevard. The use of the tunnel by the various Phases of L.D.Jackson Square has always been contemplated by the Hotel Interface Agreement. This current Easement Agreement formalizes the intentions.

The City shall operate, maintain and repair the truck route with costs to be shared amongst the users.

3. Easement Agreement to Fourth Phase Civic Square Limited
- Copps Coliseum Truck Tunnel -

This Agreement dated February 8, 1990 grants an easement over the Copps Coliseum Truck Tunnel to Fourth Phase Civic Square Limited during the balance of the term of the Ground Lease, namely commencing on the date hereof and ending on October 30, 2069 to use the route as a right-of-way for vehicular access only in a one way direction for Fourth Phase and its suppliers to have access to its loading dock and for domestic vehicles to exit from the existing parking garage exit door of the Fourth Phase into the new truck route for egress to York Boulevard.

The City shall operate maintain and repair the truck route with the costs to be shared amongst the users.

The Truck Tunnel has been used by Fourth Phase since its existence and has always been contemplated by the Hotel Interface Agreement.

The Easement being granted by the City to Fourth Phase Civic Square Ltd. over the Copps Coliseum Truck Tunnel permits the use of the Tunnel not only for access to the Fourth Phase truck loading dock located off the Tunnel, but also permits cars to exit from the lower level existing exit door of the Fourth Phase parking facility into the City's Truck Tunnel. While an exit door from the Fourth Phase parking structure has always existed, it has only been in the past four to five months that the door has actually been used for exit purposes.

Copps Coliseum staff have expressed concern over the use of the Tunnel by domestic vehicles exiting from the Phase IV garage and have been monitoring the situation for a number of months. Their concerns are recited in correspondence to me dated February 16, 1990 from which I will quote:-

- "(a) Safety - domestic vehicles exiting the Phase IV garage into the truck tunnel do so blindly. Truck traffic in the tunnel is steady throughout the day and the potential for a collision is very real. In addition, during event days events personnel work in the truck tunnel, i.e. loading/unloading, television mobile hookup etc. The control of vehicular traffic is critical during these times.
- (b) Security during event days/nights - allowing domestic vehicles to exit via the truck tunnel seriously affects security in that the overhead grille at the York Boulevard exit must remain open. The public is then afforded direct access to the truck tunnel and loading dock areas."

In the opinion of the City staff, it was always contemplated that the Truck Tunnel would be used for commercial vehicles only. Phase IV does not share this viewpoint. A great deal of discussion has taken place over the past few months on this very issue. There is no doubt the Jackson Square parking facility complements our Copps Coliseum in that it provides convenient parking to Coliseum customers. This exit into the Truck Tunnel will make the facility even more attractive to our customers in that a more expeditious exit route will be created.

Our discussions with the principals of L.D. Jackson Square has resulted in an arrangement that hopefully will solve any problems relative to the use of the Tunnel by cars. The City and Fourth Phase agree that when it is mutually determined by the City and the Lessee that there is an unusual problem in the new truck route (such as security, excessive traffic, Copps Coliseum shows, etc.) the said parking garage exit door will be closed temporarily to prohibit cars from exiting into the new truck route.

Furthermore, while it may be Fourth Phase's intentions to create another loading dock off the Truck Tunnel in the future, the Easement Agreement expressly stipulates that Fourth Phase has no vehicular access easement over the lands in the tunnel currently used for staff, contractors, entertainers and telecommunications vehicle parking. In other words this area used solely by Copps Coliseum will not be disturbed. As an additional control, any expansion of a loading dock or the creation of a new loading dock of Phase IV which enters the truck route is subject to the approval of the City under the Ground Lease.

4. Truck Tunnel Easement -- Second Phase to City
-- Library/Farmer's Market --

This Agreement provides for the grant of an easement in favour of the City until October 30, 2069 over that portion of the existing Truck Tunnel, being the demised premises of Second Phase, running adjacent to the Library/Farmer's Market Complex, to use the truck route as a right-of-way for vehicular access and for trucks and other vehicles delivering or removing goods to and from the City's Library/Farmer's Market Complex.

This Truck Tunnel has been in existence for many years and the Library and Farmer's Market and their invitees have been using same freely. This Easement Agreement will now formalize the City's use of the lands of Second Phase.

Second Phase shall operate, maintain and repair the vehicular access route with the costs to be shared amongst the users.

5. Truck Tunnel Easement Agreement
City to Second Phase --

This Agreement grants an easement to Second Phase over a portion of the Truck Tunnel along the rear of the Library/Farmer's Market so that Second Phase can gain access in the future to its own Second Phase Truck Route.

There shall be no alterations to the demised premises of Second Phase that abuts the Library/Farmer's Market truck route for the purpose of a loading dock or truck access beside the truck route.

There are no immediate plans of Second Phase to use this truck route for vehicular access purposes but Second Phase may wish to use this City tunnel in the future. Under the current arrangement, security to the Market and Library will not be compromised.

Attach.

c.c. - Mr. L. Sage, Chief Administrative Officer

- Mr. P.R.A. Hooker, Acting City Solicitor
Attention: Mr. D. Powers
- Mr. E.C. Matthews, City Treasurer
- Mr. A. Georgieff, Director of Local Planning
- Mrs. J. McAnanama, Chief Executive Officer, Central Library
Attention: Mr. W. Guise
- Mr. K. Avery, City Clerk
Attention: Mrs. S. Miller, Manager, Central Market
- Mr. B. Calder, Manager of Plant and Building Operations
Copps Coliseum - H.E.C.F.I.

A P P E N D I X "A"

AMENDMENT TO GROUND LEASE

THIS AGREEMENT made as of the 24th day of January, 1990.

B E T W E E N:

THE CORPORATION OF THE CITY OF HAMILTON

(herein called "the City")

OF THE FIRST PART

- and -

SECOND PHASE CIVIC SQUARE LIMITED

(herein called "Second Phase")

OF THE SECOND PART

- and -

YALE PROPERTIES LTD.

(herein called "Yale")

OF THE THIRD PART

GREATER HAMILTON DEVELOPERS LIMITED

(herein called "Greater Hamilton")

OF THE FOURTH PART

WHEREAS:

(a) Under a Development Agreement (hereinafter called the "Development Agreement"), dated September 3, 1970, the City, Greater Hamilton and Yale, did agree on the development and leasing of land, which Agreement was registered in the Registry Office for the Registry Division of Wentworth on the 30th day of March, 1971 as Instrument No. 199965A.B. and has been subsequently amended several times by registered Amending Agreements;

(b) By a Designation Agreement dated as of the 13th day of November, 1975, (herein called the "Designation Agreement") and registered in the said Registry Office on the 16th day of August, 1976 as Instrument No. 21610C.D., between the City, Second Phase, Greater Hamilton and Yale, Greater Hamilton granted all of its rights and obligations under and pursuant to the Development Agreement as they relate to Part Two (as defined therein) to Second Phase;

(c) By a Ground Lease dated as of the 19th day of November, 1975, (herein called the "Ground Lease") registered in the said Registry Office on the 16th day of August, 1976, as Instrument No. 21613C.D., between the City, as Lessor, Second Phase, as Lessee and Yale as Guarantor, the City leased to Second Phase the demised premises more particularly described in Schedule "A" attached thereto;

(d) By an Agreement dated as of the 15th day of November, 1975, (herein called the "Planning Act Agreement") registered in the said Registry Office on the 16th day of August, 1976 as Instrument No. 21610C.D., Second Phase and Yale agreed with the City in accordance with subsection 9 of section 22 of The Planning Act, R.S.O., 1970, c. 349 as amended;

(e) Pursuant to an Agreement dated as of the 30th day of November, 1976 (herein called the Licence Agreement") the parties hereto agreed that subject to certain conditions precedent being fulfilled, as set out in the Licence Agreement, the Ground Lease would be amended by including with the demised premises (as defined in Section 1.01(b) of the Ground Lease) certain additional land comprising 13,987 square feet and described in Schedule No. 5 hereto annexed (the "Additional Land") so that the demised premises under the Ground Lease shall be composed of the lands described in Schedule No. 1 hereto annexed;

(f) The matters in recital (e) were authorized by Addendum Number 8 dated November, 1976, being an amendment to the Redevelopment Plan entitled "Civic Square Urban Renewal Scheme, City of Hamilton" dated October, 1965, as prepared by Murray V. Jones and Associates Limited, in conjunction with the Urban Renewal Committee of the City of Hamilton, which Addendum was authorized and passed by By-law No. 77-70 of the City on the 29th day of March, 1977;

(g) Section 14.01 of the Ground Lease provides, amongst other things, that the City may lease to Second Phase and Second Phase may take and rent from the City, any additional land and that in such event, the City and Second Phase will execute a supplemental lease therefor for the balance of the term, thereof subject to such conditions

as may then be agreed upon in the supplemental lease and otherwise subject to the conditions of the Ground Lease.

(h) Section 23.04 of the Ground Lease provides that "This lease may not be modified or amended except by an instrument in writing of equal formality herewith executed by the parties hereto or by their successors or assigns";

(i) Second Phase wishes to alter the Improvements (as defined in the Ground Lease) by expanding the same over a portion of the Additional Land which will result in a reduction of the Publicly Usable Open Space (as defined in the Ground Lease);

(j) Second Phase has submitted to the City, plans of the proposed expansion of the Improvements (as required by Section 6.04 of the Ground Lease) prepared by Arthur C. F. Lau, Architect. These plans included the following:

(a) plan titled "Restaurant Extension - Plan at Promenade Level" dated June, 1989;

(b) plan titled "Basement Plan";

(c) plan titled "Plan at Plaza Level";

The foregoing plans and other plans in the possession of the City have been initialled by Second Phase's architect or by an officer of Second Phase and the corporate seal of Second Phase affixed thereto. (Herein, those plans are referred to as the "Plans" and the alterations of the Improvements as detailed in the Plans are herein referred to as the "Alterations");

(k) Second Phase has applied to the City as lessor, for its approvals pursuant to the Ground Lease for the Alterations including a reduction in the area of the Publicly Usable Open Space.

(l) Second Phase intends to finance the Alterations and the proposed expansion of the Improvements by obtaining a mortgage or charge secured against its leasehold interest in the Ground Lease.

NOW THEREFORE IN CONSIDERATION of the sum of One Dollar (\$1.00) paid by each of the parties hereto to the others (receipt whereof is hereby acknowledged) and the covenants hereinafter contained, it is agreed by and between Second Phase, Yale, Greater Hamilton and the City as follows:

1. The Ground Lease is hereby amended by deleting Schedule "A" thereto and substituting therefor Schedule No. 1 attached hereto identified as "Schedule "A" - Revised description Part 2 Lloyd D. Jackson Square".

2. The Ground Lease is hereby amended by deleting Schedule "B" thereto titled "Plan showing Publicly Usable Open Space" and substituting therefor the schedule attached hereto identified as "Schedule No. 2 - Revised Plan showing Publicly Usable Open Space" and is noted as revised June 9, 1989;

3. The phrase "Part Two" in the Designation Agreement shall be deemed to mean Part Two as shown on Schedule "A" of the Development Agreement as that Schedule has been substituted pursuant to paragraph numbered 1 of this Agreement.

4. The Planning Act Agreement is hereby amended by deleting Schedule "A" thereto and substituting therefor said Schedule No. 1 attached hereto.

5. Upon the execution, delivery and registration of this Indenture, the Licence Agreement shall terminate.

6. That the City, solely in its capacity as Lessor under the Ground Lease, hereby grants its approval pursuant to sections 4.05 and 6.04 of the Ground Lease:

(a) To the Plans for the construction of the Alterations;
(b) To the construction of the Alterations in accordance with the Plans and the requirements of the Ground Lease, provided that the Alterations are not commenced until this Agreement is fully executed by all parties and registered on title to the land described in said Schedule No. 1;

(c) To the changes to the external appearance of the Improvements of Second Phase resulting from the Alterations;

(d) To diminish the area of Publicly Usable Open Space of Second Phase by 6,500 square feet;

(e) To increase the Net Rentable Area of the Improvements of Second Phase (referred to in Section 4.05 of the Ground Lease) by 14,000 square feet.

7. (a) The City acknowledges having received the Plans from Second Phase and a Certificate of the cost estimates of the Alterations (as required by Section 6.04 of the Ground Lease).

(b) As the cost estimates of the Alterations are in excess of \$250,000.00, the City requires (pursuant to Section 6.04 of the Ground Lease) that Second Phase, prior to the commencement of the Alterations, produce to the City an executed copy of the contract(s) for the construction of the Alterations and that such contract(s) shall comply with the provisions of Section 6.04 of the Ground Lease.

8. (a) Second Phase covenants and agrees that construction and completion of construction of the Alterations by Second Phase is governed by the following covenant of Second Phase to the City in the Ground Lease:

"The Lessee covenants and agrees that any alterations or other additional work once begun shall be prosecuted with reasonable diligence to completion free and clear of any and all mechanics' liens or other liens, conditional sale contracts, chattel mortgages or similar claims or encumbrances against the demised premises, the Improvements, the Lessor or any mortgagee, and performed in all respects in accordance with the law." (Section 6.04)

(b) Second Phase hereby expressly confirms that the Alterations will be specifically governed by the said quoted covenant in Section 6.04 of the Ground Lease and other applicable provisions of the Ground Lease as well as all of the provisions of this Agreement.

(c) Second Phase confirms and agrees that the rights and remedies of the City pursuant to this Agreement and pursuant to the Ground Lease are cumulative and not alternatives or exclusive or dependent upon each other, but the City may, from time to time, exercise any one or more of such remedies generally or in combination.

9. Second Phase acknowledges and agrees:

(i) That the Net Rentable Area of the Improvements of Second Phase prior to construction of the Alterations is 269,960 square feet;

(11) That the Net Rentable Area of the Retail Commercial Space (Concourse Level) prior to the construction of the Alterations is 111,760 square feet;

(11i) That the Net Rentable Area of the Retail Commercial Space (Basement Level) prior to the construction of the Alterations is Nil;

(iv) That the area of the Publicly Usable Open Space prior to the construction of the Alterations is 82,000 square feet;

(v) That the total Net Rentable Area of the Retail Commercial Space (Concourse Level) after construction of the Alterations will be 118,260 square feet;

(vi) That the Net Rentable Area of the Retail Commercial Space (Basement Level) after construction of the Alterations will be 7,500 square feet;

(vii) That the area of the Publicly Usable Open Space after the construction of the Improvements will be 75,500 square feet;

(viii) That the total Net Rentable Area of the Improvements after construction of the Alterations will be 283,960 square feet.

10. In the event that after construction of the Alterations there is, in the reasonable opinion of the City, a significant discrepancy in any of the areas referred to in paragraph 6(v), (vi), (vii) and (viii) as constructed and the areas referred to in this Agreement, the parties shall enter into a further Agreement.

11. Schedule "B-14, Page 2" of the Development Agreement titled "Description of Improvements" is hereby amended by deleting the section thereof under the subheading "Phase Two" and substituting therefor the revised description of the Phase Two Improvements attached hereto as Schedule No. 3 titled "Description of Improvements B-14 Page 2 (revised August 1, 1989)".

12. Schedule "B-13" of the Development Agreement titled "Publicly Usable Open Space" is hereby deleted and a revised Map of Publicly Usable Open Space attached hereto as Schedule No. 4 is substituted therefor.

13. The parties acknowledge that notwithstanding that as of the date hereof, the Improvements of Second Phase have not been certified as completed by the Review Authority pursuant to Section 4.05(b) of the Development Agreement, this Agreement has been entered into as if the Improvements have been certified as completed on or about April, 1977, at which time the total Net Rentable Area of the Improvements as constructed was 269,960 square feet.

14. Second Phase acknowledges that the approvals of the City as Lessor in this Agreement do not and are not intended to indicate in any way whatsoever, compliance by Second Phase with the City's zoning by-laws or other by-laws and standards, or the standards, by-laws, regulations or laws of any other level of government.

15. Second Phase shall indemnify the City against all claims by any person arising from the construction of the Alterations or any other thing whatsoever related thereto whether arising from any breach or default or negligence by Second Phase, its tenants, agents, contractors, employees, invitees or licensees or from any accident, injury or damage or any other cause whatsoever related thereto; and such indemnity shall extend to all costs, legal fees, expenses and liabilities which the City may incur with respect to any such claim.

16. The Development Agreement, Designation Agreement, Ground Lease and Planning Act Agreement are hereby ratified and confirmed and are in full force and effect as amended hereby.

17. This Indenture shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

18. (a) This Agreement is subject to and shall not take effect until the approval of the same by the Ontario Provincial Minister of Municipal Affairs and Housing and Canada Mortgage and Housing Corporation, have been obtained, if necessary.

(b) The City will apply for the approval set out above and take all necessary steps for such applications forthwith after approval of this Agreement by its council.

19. The phrase "FIRST MORTGAGE" beneath the heading "ARTICLE XVI" on page 54 of the Ground Lease and Section 16.01(d) and Section 16.02 of the Ground Lease are hereby deleted.

20. The Lessee shall register this Agreement on title to the lands described in Schedule No. 1 attached forthwith after the execution of this Agreement.

21. Second Phase covenants and agrees that construction of the Alterations shall not commence until an Easement Agreement dated February 13, 1990 (to provide access along a new truck route defined in the said Easement Agreement to a loading dock to be constructed on the lands described in Schedule No. 5, such Easement Agreement being between the City as Transferor and Second Phase as Transferee) is executed and delivered by the parties thereto and registered on the title to the lands described in Schedule No. 1 attached hereto.

IN WITNESS WHEREOF the parties hereto have caused to be affixed their respective corporate seals attested by the signatures of their respective proper officers duly authorized for such purposes.

THE CORPORATION OF THE CITY OF HAMILTON

Mayor

City Clerk

SECOND PHASE CIVIC SQUARE LIMITED

President

Secretary

YALE PROPERTIES LTD.

Vice-President

GREATER HAMILTON DEVELOPERS LIMITED

President

Secretary

LIST OF SCHEDULES attached to and forming part of an Agreement dated January 24, 1990 between THE CORPORATION OF THE CITY OF HAMILTON, SECOND PHASE CIVIC SQUARE LIMITED and YALE PROPERTIES LTD.

- SCHEDULE No. 1 - Revised Legal Description of Demised Premises
- SCHEDULE No. 2 - Revised Plan of Publicly Usable Open Space
- SCHEDULE No. 3 - Revised Description of Improvements
- SCHEDULE No. 4 - Revised Plan of Publicly Usable Open Space
(Development Agreement)
- SCHEDULE No. 5 - Legal Description of Additional Land

SCHEDULE NO. 1

SCHEDULE A

Phase Two Lloyd D. Jackson Square
Lease of Space in Shopping Promenade

REVISED
DESCRIPTION OF PART TWO LANDS

FIRSTLY:—

ALL AND SINGULAR that certain parcel or tract of land and premises, situate, lying and being in the City of Hamilton, in the Regional Municipality of Hamilton-Wentworth, in the Province of Ontario and being composed of part of Andrew Miller's Seven Acre Tract as shown on Registered Plan No. 50 in the block bounded by Market, MacNab, King and Park Streets, part of Andrew Miller's Seven Acre Tract as shown on the said Registered Plan No. 50 in the block bounded by York, MacNab, Market and Park Streets sometimes known as part of the un-numbered lot according to Sir A. N. MacNab's Survey in the said block, part of Andrew Miller's Seven Acre Tract as shown on the said Registered Plan No. 50 in the block bounded by Merrick, MacNab, York and Park Streets, part of Andrew Miller's Seven Acre Tract as shown on the said Registered Plan No. 50 in the block bounded by Merrick and James Street, Market Square and MacNab Street, all of Lots 1, 2, 3, 4, 5, 6, 11, 12, 13, 14 and 15 and part of Lots 7 and 10 and part of an alleyway according to Sir A. N. MacNab's Survey in the block bounded by York, MacNab, Market and Park Streets, part of Lots 1 and 2 and the un-numbered lot as shown on D. Kirkendall Survey Registered Plan No. 39 in the block bounded by Market, MacNab, King and Park Streets, part of the said D. Kirkendall Survey Registered Plan No. 39 in the block bounded by Merrick, MacNab, York and Park Streets, parts of Market Street (now closed by City of Hamilton By-laws Nos. 70-276 and 72-270 dated respectively September 29th, 1970 and October 31st, 1972 and registered as Inst. 182918 A.B. and 270101 A.B.) parts of York Street (now closed by City of Hamilton By-laws Nos. 70-278 and 72-271 dated respectively September 29th, 1970 and October 31st, 1972 and registered as Insts. 182920 A.B. and 278102 A.B.), part of MacNab Street (now closed by City of Hamilton By-law No. 70-277 dated September 29th, 1970 and registered as Int. 182919 A.B.), part of Market Square (now closed by City of Hamilton By-law No. 70-279 dated September 29th, 1970 and registered as Inst. No. 182921 A.B.) and which said parcel may be more particularly described as follows:—

Premising that all bearings herein are astronomic and are derived from the Ontario Co-ordinate System, Zone 10 Central Meridian 79° 30' West Longitude.

Commencing at a point in the northern limit of King Street as widened by City of Hamilton Bylaw No. 70-336 dated November 10th, 1970 and registered as Inst. 187452 A.B., distant therein North 69°19'50" West Five hundred and eighteen point one three feet (518.13') from the western limit of James Street as widened by City of Hamilton By-law No. 70-335 dated November 10th, 1970 and registered as Inst. No. 187451 A.B.

Thence North 17°50'50" East parallel to the said western limit of James Street as widened, One hundred and sixty-two point five six feet (162.56').

Thence South 72°09'10" East Fifty point zero feet (50.0').

Thence North 17°50'50" East parallel to said western limit of James Street as widened, Two hundred and twenty-seven point eight six feet (227.86').

Thence South 72°09'10" East One hundred and thirty-eight point one seven (138.17') more or less to a south west corner of the existing Market Ramp Garage.

Thence North 17°59'40" East along the western face of a western wall of the said Market Ramp Garage, Thirteen point two seven feet (13.27') to an angle therein.

Thence North 71°57'55" West along the southern face of a southern wall of the said Market Ramp Garage, Thirteen point zero one feet (13.01') to an angle therein.

Thence North 17°59'40" East along a western face of a western wall of the said Market Ramp Garage, Eighty-nine point eight nine feet (89.89').

Thence North 72°09'10" West, Three hundred and fifty-three point five zero (353.50').

Thence North 17°50'50" East parallel to the said western limit of James Street as widened, twenty-nine point three zero feet (29.30').

Thence North 72°09'10" West, eighty-three point zero feet (83.0').

Thence South 17°50'50" West parallel to the said western limit of James Street as widened, Two hundred and eighteen point eight four feet (218.84').

Thence South 72°09'10" East Twenty point zero feet (20.0').

Thence South 17°50'50" West parallel to the said western limit of James Street as widened, Two hundred and ninety point four eight feet (290.48') more or less to the said northern limit of King Street as widened.

Thence South 68°32' East along the last mentioned limit One hundred and twenty-three point two two feet (123.22') to an angle therein.

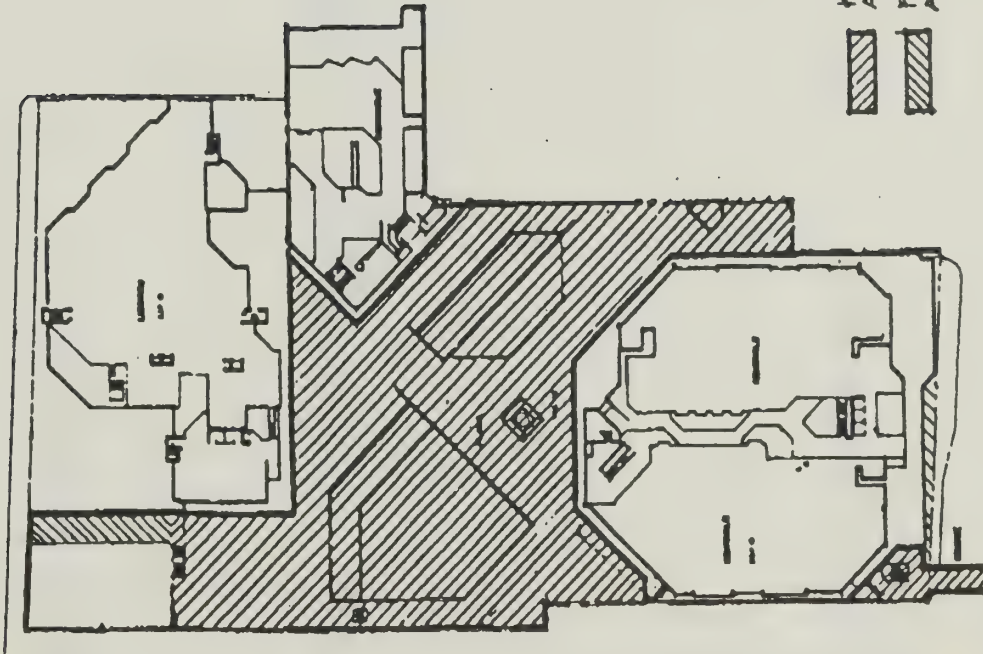
Thence South 69°19'50" East continuing along the said northern limit of King Street as widened, One Hundred and eighteen point one seven feet (118.17') more or less to the point of commencement.

SUBJECT to and together with the easements and other rights and obligations reserved, granted, set forth and more particularly described in Schedule "C" to a lease dated the 19th day of November, 1975 between The Corporation of the City of Hamilton, as lessor therein, Second Phase Civic Square Limited, as lessee therein, and Yale Properties Limited, as guarantor therein, registered in the said Registry Office on August 16, 1976 as Instrument No. 21613 C.D.

All of which said parcel is now known as part of The Lloyd D. Jackson Square or Civic Square in the block bounded by King, James, Merrick and Bay Streets. previously described in Instrument No. 21613C.D.

SECONDLY:— Part of Block 4, and the Block bounded by Merrick, MacNab, York and Park Streets and part of York Street as closed by By-law 72-271, registered as Instrument No. 270102A.B., Registered Plan 39, all abstracted in Jackson Square, designated as Part 1, being part of the said Block 4; and Part 2, being part of the said Block 4 and part of York Street as closed on Plan 62R-Phase Two 9/76; City of Hamilton; Regional Municipality of Hamilton-Wentworth.

SCHEDULE No. 2 - REVISED PLAN SHOWING
PUBLICLY USABLE OPEN SPACE



PUBLIC USABLE OPEN SPACE
AT PLAZA LEVEL
PUBLIC USABLE OPEN SPACE
AT STREET LEVEL

REVISED JUNE 9, 1989.

A.C.F. LAU, ARCHITECT

PI A7A LEVEL

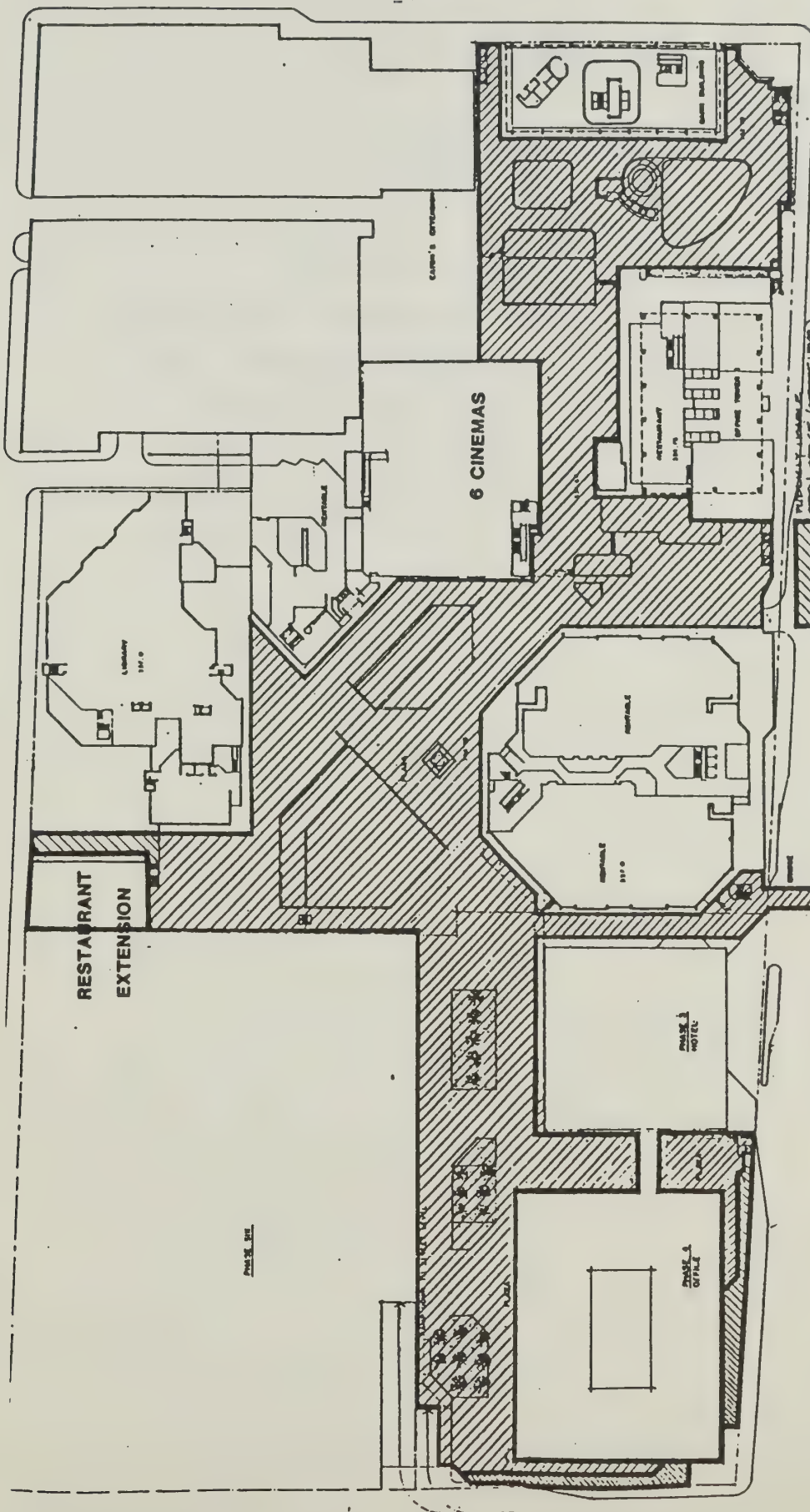
PI A7A

B-14 Page 2
(Revised August 1st, 1969)

DESCRIPTION OF IMPROVEMENTS

<u>PHASE TWO</u>	<u>Gross Floor Area (Sq. Ft.)</u>	<u>Net Rentable Area (Sq. Ft.)</u>	<u>Maximum Coverage at Plaza Level (and above) - Sq. Ft.</u>	<u>Maximum Height Above Plaza Level (331.0)</u>
Retail Commercial Space (Concourse Level)	156,200	118,260	-----	-----
Retail Commercial Space (Plaza Level)	68,000	49,000	57,700	One Floor (Plus Mechanical)
Office Building	120,600	109,200	-----	Six Floors (Plus Mechanical)
Retail Commercial Area Basement Level	8,300	7,500	-----	-----

The amount of Public Usable Open Space is 75,500 square feet.
The minimum number of Parking Spaces is 235.



REVISED 30 JAN. 1980

A.C.F. LAU, ARCHITECT

Map of Publicly Usable Open Space

PLAZA LEVEL

SCHEDULE NO. 5

LEGAL DESCRIPTION OF ADDITIONAL LAND

Part of Block 4, and the Block bounded by Merrick, MacNab, York and Park Streets and part of York Street as closed by By-law 72-271, registered as Instrument No. 270102A.B., Registered Plan 39, all abstracted in Jackson Square, designated as Part I, being part of the said Block 4; and Part 2, being part of the said Block 4 and part of York Street as closed on Plan 62R- ; City of Hamilton; Regional Municipality of Hamilton-Wentworth.

THIS AGREEMENT made this 13th day of February, 1990.

B E T W E E N:

THE CORPORATION OF THE CITY OF HAMILTON

Hereinafter called the "City"

OF THE FIRST PART,

- and -

SECOND PHASE CIVIC SQUARE LIMITED

Hereinafter called "Lessee"

OF THE SECOND PART

WHEREAS:

1. The City has entered into a Ground Lease with Second Phase Civic Square Limited in respect of the land described in Schedule "B" attached hereto, such Lease dated November 19, 1975, is registered as Instrument No. 21613 C.D.;
2. The City has entered into a Ground Lease with Fourth Phase Civic Square Limited (hereinafter referred to as "Fourth Phase") dated June 1, 1981, which Lease has been registered as Instrument No. 197189 C.D.;
3. The City has entered into a Ground Lease with Lakeview Development Ltd. (hereinafter referred to as "Lakeview" dated May 3, 1983, which Lease has been registered as Instrument No. 271066 C.D. on January 31, 1984;
4. The City, Lakeview, Second Phase Civic Square Limited and Fourth Phase Civic Square Limited have entered into an Interface Agreement dated July 30, 1984, which Agreement has been registered as Instrument No. 161659 L.T. and as Instrument No. 320192 C.D. (herein referred to as the "Interface Agreement");

5. Section 6 of the Interface Agreement includes provisions in respect of:

-the reconstruction and extension of a truck route previously constructed by Fourth Phase Civic Square Limited, pursuant to the Fourth Phase Ground Lease.

-That after the reconstructed and extended truck route is completed by the City in conjunction with the construction of the Trade Centre/Arena known as the Victor K. Copps Coliseum (hereinafter referred to as "Copps Coliseum"), the Interface Agreement includes provisions for:

- (i) the preparation and deposit by the City of a reference plan of survey; and,
- (ii) easement agreements for the reconstructed and extended truck route including an easement from the City as Transferor in favour of the Lessee as Transferee;

6. The reconstructed and extended truck route was completed by the City on the land described in Schedule "A" attached hereto (hereinafter referred to as the "new truck route") on or about the 29th day of November, 1985.

A survey was prepared and deposited by the City as Plan 62R-8136 and a legal description of the new truck route is attached hereto as Schedule "A".

7. The parties hereby wish to enter into the easement agreement referred to in the above mentioned Interface Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and the sum of TWO DOLLARS (\$2.00) now paid by each party to the other (the receipt of which is acknowledged), the parties hereto agree as follows:

1. Subject to the conditions contained herein and in the Interface Agreement, the City hereby transfers in common with all others entitled thereto from time to time, to the Lessee, to be enjoyed and used as appurtenant to the Lessee's leasehold land described in Schedule "B" attached hereto, for and during

the balance of the term of the Ground Lease less one day, (namely, commencing on the date hereof and ending on October 30, 2069 unless the Ground Lease is terminated earlier than October 30, 2069), on, over, along and upon the new truck route, the non-exclusive right, interest and EASEMENT to enter onto and use the Schedule "A" land as a right-of-way for vehicular access only in a one way direction as follows:

- (a) commencing at the Easterly limit of the public highway known as Bay Street North and continuing in a one way direction along the new truck route to the loading dock to be constructed by the Lessee on the land described in Schedule "C" hereto, (hereinafter referred to as the "loading dock") which land is part of the land described in said Schedule "B"; and
- (b) continuing in the same one way direction from the loading dock along the new truck route to the Southerly limit of the public highway known as York Boulevard.

2. The Lessee covenants and agrees that its use of the new truck route shall:

- (a) be limited to trucks and other vehicles delivering or removing supplies, materials, equipment, furniture, garbage and such other matters and things as may reasonably be required by the Lessee, its suppliers, contractors, employees, agents and commercial tenants and all those claiming under them, to and from the loading dock;
- (b) be used solely by the Lessee, its suppliers, contractors, employees, agents and commercial tenants and all those claiming under them for the purposes set out in paragraph (a) above, (and shall not be used for the transportation of persons to and from the Lessee's premises described in Schedule "B" including, without limitation employees, guests or visitors nor shall it be used for any other purpose including, without limitation, by taxis or by cars for access to and from any car parking lot or garage.)

such Rules and Regulations and amendments and supplements thereto, if any, shall be given to the Lessee by the City. No Rule or Regulation or amendment or supplement thereto shall contradict any provision of this Agreement.

4. The City shall operate, maintain and repair the new truck route and the costs thereof incurred by the City shall be borne, it is agreed, by the City, GGS Hotel Holdings (Canada) Inc., Fourth Phase Civic Square Limited, the Lessee and such other users permitted by the City in such amounts as may be agreed upon from time to time. Without limiting the generality of the foregoing:

- (a) it is agreed that the City as owner and manager of the new truck route shall:
 - (i) manage the new truck route's maintenance, operation and repair and the costs thereof, including, heating, public utilities, ventilation, lighting, electricity (including that used for signs), fire protection equipment, snow removal, cleaning, security, as well as salaries and other remuneration (including contributions towards the usual fringe benefits to and for the benefit of personnel and staff employed to provide the said maintenance, operation and repair), as well as the cost to the City of equipment and the rental of equipment and the cost of supplies used by the City in its maintenance, operation and repair.
 - (ii) invoice and collect each user's share of these costs.
- (b) it is agreed that the said costs of the new truck route (herein called the "new truck route's costs") to be shared amongst the users shall include the costs or expenses for each of the matters in paragraph 4(a)(i) above including an administration overhead charge equal to fifteen per cent (15%) of the new truck route costs;
- (c) The Lessee covenants to pay to the City the Lessee's share of the new truck route costs.
- (d) The City agrees that the new truck route costs shall not include costs related to the matters referred to in paragraph 2(h)(i) or in 6(e) where such costs are those

of the City, its servants, agents, employees, contractors, licensees or anyone for whom in law it is responsible, and any other user except the Lessee when such costs are the responsibility of the Lessee pursuant to such paragraphs.

5. (a) All calculations made or referred to herein shall be made in accordance with generally accepted accounting principles and practices applied on a consistent basis. Subject as hereinafter provided, the Lessee agrees that any monies, expenses or charges which are to be paid by the Lessee to the City are due and payable within thirty (30) days of receipt of invoice and thereafter interest on any amount unpaid shall accrue at the then Bank of Montreal prime rate plus three percent (3%) per annum until paid.

For the purposes hereof, "prime rate" means the floating annual rate of interest established from time to time by Bank of Montreal as the rate it will use to determine rates of interest payable by its borrowers on Canadian dollar commercial loans made by Bank of Montreal to such borrowers in Canada and designated by the Bank of Montreal as its prime rate.

- (b) If the Lessee shall fail or neglect to conform or comply with any of the terms, covenants and conditions contained in this Agreement (other than the covenants to pay sums required to be paid to the City by any provision of this Agreement), the City may notify the Lessee in writing of the default and the Lessee shall forthwith, after receiving such Notice, commence to and shall remedy the breach complained of in such Notice within 45 days if the breach is capable of being remedied within such period and otherwise shall prosecute same with diligence to completion in the shortest period reasonably possible after the date of receipt of such Notice.
- (c) If any sum of money required to be paid to the City by any provision in this Agreement shall not be paid by the Lessee when such payment is due, the provisions of

paragraph 14(i)(ii) and 14(i)(iii) of the Interface Agreement shall be applicable.

- (d) If the Lessee does not comply with paragraph 5(b) hereof as required, the City may take either or both of the following steps in addition to or together with any other remedy available at law to the City:

(i) The City, (provided the matters in dispute shall not have been referred to arbitration) on not less than sixty (60) days' notice to the Lessee, may terminate this Easement Agreement unless within such sixty (60) day notice period the Lessee shall comply with paragraph 5(b) hereof; or,

(ii) Such breach or default may, at the option of the City, be deemed to constitute a default of the Lessee under the Ground Lease and after it has then given the Notice of default pursuant to the Ground Lease, the City shall have its rights under the Ground Lease.

6. (a) Notwithstanding that the Lessee shall have complied in all respects with its obligations under this Agreement, if the City wishes to establish an alternate new truck route, then, on not less than one (1) year's prior written notice to the Lessee given by the City, this easement agreement shall terminate as of the date stated in the notice.
- (b) In the event that this easement agreement is terminated in accordance with the preceding provision 6(a), the City shall provide for an alternate truck route or routes and a new easement therefor. Such alternate truck route may be temporary during construction (whether before or subsequent to the termination as aforesaid) and will be specifically determined thereafter, provided that during construction of an alternative truck route, a temporary truck route will be available.
- (c) The Lessee acknowledges and agrees that the new truck route (or portions of it) may be closed for such time as may be reasonably necessary for repairs, maintenance and alterations or due to unforeseen and unusual circumstances. In particular and without limiting the generality of the

foregoing, the City shall be entitled to close the new truck route at any time or from time to time throughout the term hereof, upon at least seven (7) days' notice to the Lessee, for such temporary periods of time as may be reasonably necessary for the purpose of fulfilling its obligations and exercising its rights under this Agreement, and the Lessee shall not be entitled to claim from or be paid any amount by the City in respect of such closure or resulting inconvenience or expense.

- (d) Anything in this Agreement to the contrary notwithstanding, providing such cause is not due to the wilful act or omission of the City, the City shall not be deemed in default with respect to the performance or fulfilment of any of the terms, covenants and conditions of this Agreement if the same shall be due to any cause beyond the City's control or otherwise including, without limitation, strike, lockout, failure of powers, civic commotion, warlike operation, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls, inability to obtain any material or service, or non-delivery of equipment, or through Act of God.
- (e) If the new truck route, including its doors, equipment and fixtures including the entrances thereto, the boilers, engines, pipes and other apparatus (or any of them) used for the purpose of heating or air conditioning or the ceiling, walls or floors of the new truck route or any part thereof become damaged or destroyed through the negligence, carelessness or misuse of the Lessee, its servants, agents, employees, contractors, licensees or anyone for whom in law the Lessee is responsible, or through the Lessee or them in any way stopping up or injuring the heating apparatus, water pipes, drainage pipes or other equipment or part of the site, the expense of the necessary repairs, replacements or alterations shall be borne by the Lessee who shall pay the same to the City forthwith upon demand.

7. The Lessee hereby agrees to indemnify and save harmless the City against and from all actions, causes of action, interest, claims, demands, costs, damages, expenses or loss which the City may bear, suffer, incur, become liable for or be put to by reason of any damage to property or injury or death to persons by reason of, arising out of or in consequence any breach, violation or non-performance by the Lessee or anyone for whom the Lessee is responsible in law of any provision of this Agreement, or by reason of or arising out of its use of the new truck route or any part thereof or by reason of or arising out of any fault, neglect or default by the Lessee or of any of its agents or employees or any other person or persons for whom the Lessee is responsible in law in or on the new truck route. The rights to indemnity contained in this paragraph shall survive any termination of this Agreement, in respect of any matter arising prior to such termination, anything in this Agreement to the contrary notwithstanding.
8. This Agreement may not be modified or amended, except by an instrument in writing of equal formality herewith.
9. No waiver by any of the parties hereto of the breach of any covenant or provision hereunder shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenants or provisions hereunder. No waiver shall be effective unless in writing.
10. This Agreement shall be registered on title to the land described in Schedules "A" and "B" by the Lessee forthwith after its execution by the parties hereto.
11. (a) This Agreement shall be binding upon and shall enure to the benefit of the Lessee, its successors and its assigns permitted by the Ground Lease and this Agreement shall bind and run with the leasehold land described in Schedule "B".

- (b) In the event that the Ground Lease with the Lessee is terminated prior to the expiration of its term, this Easement Agreement shall also terminate.
 - (c) The Lessee covenants and agrees that subject to the terms of its Ground Lease it will not dispose, by way of sale, transfer and/or assignment, or in any other way whatsoever, of any of its interests in the leasehold land described in Schedule "B" and in this Agreement unless and until such disposition is in compliance with the following:
 - (i) Except in the case of the foregoing by way of Charge or Mortgage, the Lessee shall have first acquired from any such purchaser, transferee or assignee, on closing, their Undertaking to the City, satisfactory to the City acting reasonably to abide by and be bound by all of the terms, covenants and conditions of this Agreement and without delivering such undertaking to the City. The Undertaking shall be in the form attached hereto as Schedule "D". Such undertaking after execution by the parties thereto shall forthwith be registered on title by the party subsequent in interest;
 - (ii) the party subsequent in interest to the Lessee must receive not less than all of the Lessee's interest in this Easement Agreement.
 - (d) In the event of the foregoing by way of Charge or Mortgage, the Lessee covenants and agrees that it will not mortgage any of its Leasehold Land described in Schedule "B" nor this Easement Agreement without first acquiring from any such Mortgagee its covenant to the City to comply with this Agreement in the same manner that the Mortgagee is required by sec.16.01 of the Ground Lease to agree to comply with the Ground Lease. Such covenant shall form part of the Mortgagee's Agreement with the City entered into pursuant to sec.16.01 of the Ground Lease.
12. (a) This Agreement is subject to and shall not take effect until the following approvals are received:

- (i) the approval of the Ontario Provincial Minister of Municipal Affairs and Housing; and,
- (ii) the approval of Canada Mortgage and Housing Corporation.

(b) The City will apply for the approvals set out in paragraph 12(a) and take all necessary steps for such applications. the Lessee agrees to co-operate in the obtaining of such approvals.

13. Time shall be of the essence of this Agreement.

14. (a) Any notice required or permitted to be given hereunder shall be sufficiently given if in writing and mailed by registered mail, postage prepaid, as follows:

If to the Lessee:

Second Phase Civic Square Limited
c/o Yale Properties Limited
2015 Peel Street
Montreal, Quebec
H3A 1T8

Attention: Mr. Emile Mashaal

With a copy to:

Messrs. Milligan, Gresko, Charuk & Rogers
Barristers & Solicitors
330-110 King Street West
Hamilton, Ontario
L8M 3M8

Attention: Mr. James G. Milligan

If to the City:

The Corporation of the City of Hamilton
City Hall
Attention: City Clerk
71 Main Street West
P.O. Box 2040
Hamilton, Ontario
L8N 3T4

(b) Any notice mailed as aforesaid shall be deemed to have been given and received on the fifth (5th) business day following the date of such mailing. Any party hereto may at any time give notice to any one or more of the parties hereto by a notice in writing served personally upon an Officer of such party or parties or in the case of the City, upon an official of the City, in which case, notice shall be deemed to be given and received on the day of such personal service.

- (c) Any party may at any time give notice to the other parties of any change of address of the party giving such notice and from and after the giving of such notice, the address therein specified shall be deemed to be the address of such party and any party may require that notice be given to other persons, corporations or entities who or which may or may not have an interest in this Agreement and upon the giving of notice of such requirement and the address for such required notice, then such person, corporation or entity shall be deemed to have been named above for the purpose of giving and receiving notice thereafter.
 - (d) The captions used in this Agreement are for convenience only and shall not be construed in interpreting this Agreement. Wherever from the context it appears appropriate, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in the masculine or the neuter gender shall include the masculine and neuter.
 - (e) The parties agree that all of the provisions of this Agreement are to be construed as covenants and agreements as though the words importing such covenants and agreements were used in each separate paragraph hereof. Should any provision or provisions of this Agreement be illegal or not enforceable, it or they shall be considered separate and severable from the Agreement and its remaining provisions shall remain in full force and be binding upon the parties hereto as though the said provision or provisions had never been included.
15. The parties agree that the arbitration provision contained in Section 12 of the Interface Agreement shall apply to any dispute which arises in respect of the provisions hereof.
16. (a) In consideration for the grant of the herein Easement to the Lessee, the Lessee hereby agrees and confirms that the Lessee has no right, title or interest to a vehicular access easement from the City pursuant to the Hotel

Interface Agreement except in that land known herein as the new truck route and defined herein as Part 1 on Plan 62R-8136. For greater certainty, the Lessee hereby confirms and agrees that it has no right, title or interest pursuant to the Hotel Interface Agreement or pursuant to this herein agreement to a vehicular access easement from the City in land described as Part 3 on Plan 62R-8136.

- (b) The Lessee acknowledges and agrees that any alteration to its Improvements upon its demised premises which increases the size of the loading dock or provides an additional access point between the new truck route and the demised premises leased to Second Phase, is subject to the approvals of the Lessor under Section 6.04 of the Ground Lease for alterations to the external appearance of its demised premises.

17. This Agreement may be executed in several counterparts each of which when executed by the parties shall be deemed to be an original and such counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF the parties have hereunto caused to be affixed their respective corporate seals attested by the signatures of their respective proper officers duly authorized in that behalf.

THE CORPORATION OF THE CITY OF HAMILTON

Mayor (c/s)

City Clerk

SECOND PHASE CIVIC SQUARE LIMITED

Per: _____ (c/s)
President

Per: _____
Secretary

LIST OF SCHEDULES

(attached to and forming part of an Agreement dated February 13, 1990 entered into between THE CORPORATION OF THE CITY OF HAMILTON and SECOND PHASE CIVIC SQUARE LIMITED.)

- | | | |
|--------------|---|---|
| Schedule "A" | - | Legal description of new truck route |
| Schedule "B" | - | Legal description of the Lessee's leasehold premises |
| Schedule "C" | - | Legal description of land on which Second Phase loading dock is constructed |
| Schedule "D" | - | Blank form of Undertaking Agreement |

A P P E N D I X "C"

THIS AGREEMENT made this 8th day of February, 1990.

B E T W E E N:

THE CORPORATION OF THE CITY OF HAMILTON

Hereinafter called the "City"

OF THE FIRST PART,

- and -

FOURTH PHASE CIVIC SQUARE LIMITED

Hereinafter called "Lessee"

OF THE SECOND PART

WHEREAS:

1. The City has entered into a Ground Lease with Second Phase Civic Square Limited (hereinafter referred to as "Second Phase") dated November 19, 1975, which Lease has been registered as Instrument No. 21613 C.D.;
2. The City has entered into a Ground Lease with Fourth Phase Civic Square Limited in respect of the land described in Schedule "B" attached hereto, such Lease dated June 1, 1981, is registered as Instrument No. 197189 C.D.;
3. The City has entered into a Ground Lease with Lakeview Development Ltd. (hereinafter referred to as "Lakeview") dated May 3, 1983 which Lease has been registered as Instrument No. 271066 C.D. on January 31, 1984;
4. The City, Lakeview, Second Phase Civic Square Limited and Fourth Phase Civic Square Limited have entered into an Interface Agreement dated July 30, 1984, which Agreement has been registered as Instrument No. 161659 L.T. and as Instrument No. 320192 C.D. (herein referred to as the "Interface Agreement");
5. Section 6 of the Interface Agreement includes provisions in respect of:

-the reconstruction and extension of a truck route previously constructed by Fourth Phase Civic Square Limited, pursuant to the Fourth Phase Ground Lease.

-That after the reconstructed and extended truck route is completed by the City in conjunction with the construction of the Trade Centre/Arena known as the Victor K. Copps Coliseum (hereinafter referred to as "Copps Coliseum"), the Interface Agreement includes provisions for:

- (i) the preparation and deposit by the City of a reference plan of survey; and,
- (ii) easement agreements for the reconstructed and extended truck route including an easement from the City as Transferor in favour of the Lessee as Transferee;

6. The reconstructed and extended truck route was completed by the City on the land described in Schedule "A" attached hereto (hereinafter referred to as the "new truck route") on or about the 29th day of November, 1985.

A survey was prepared and deposited by the City as Plan 62R-8136 and a legal description of the new truck route is attached hereto as Schedule "A".

7. The parties hereby wish to enter into the easement agreement referred to in the above mentioned Interface Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and the sum of TWO DOLLARS (\$2.00) now paid by each party to the other (the receipt of which is acknowledged), the parties hereto agree as follows:

1. Subject to the conditions contained herein and in the Interface Agreement, the City hereby transfers in common with all others entitled thereto from time to time, to the Lessee, to be enjoyed and used as appurtenant to the Lessee's leasehold land described in Schedule "B" attached hereto, for and during the balance of the term of the Ground Lease less one day, (namely, commencing on the date hereof and ending on

October 30, 2069 unless the Ground Lease is terminated earlier than October 30, 2069), on, over, along and upon the new truck route, the non-exclusive right, interest and EASEMENT to enter onto and use the Schedule "A" land as a right-of-way for vehicular access only in a one way direction as follows:

- (a) commencing at the Easterly limit of the public highway known as Bay Street North and continuing in a one way direction along the new truck route to the loading dock designated as Parts One and Two on Plan 62R-6886 (hereinafter referred to as the "loading dock") which land is part of the land described in said Schedule "B"; and
- (b) continuing in the same one way direction from the loading dock along the new truck route to the Southerly limit of the public highway known as York Boulevard.

2. The Lessee covenants and agrees that its use of the new truck route shall:

- (a) be limited to trucks and other vehicles delivering or removing supplies, materials, equipment, furniture, garbage and such other matters and things as may reasonably be required by the Lessee, its suppliers, contractors, employees, agents and commercial tenants and all those claiming under them, to and from the loading dock;
- (b) be used solely by the Lessee, its suppliers, contractors, employees, agents and commercial tenants and all those claiming under them for the purposes set out in paragraph (a) above, (and shall not be used for the transportation of persons to and from the Lessee's premises described in Schedule "B" including, without limitation employees, guests or visitors nor shall it be used for any other purpose including, without limitation, by taxis or by cars for access to and from any car parking lot or garage.)
 - (i) Notwithstanding the foregoing, the City agrees that the Lessee shall have the right to have cars exit

from the Lessee's existing parking garage exit door into the new truck route for egress to York Boulevard.

Without limiting the generality of other paragraphs hereof, the City and Lessee agree that when it is mutually determined by the City and the Lessee acting reasonably that there is an unusual problem in the new truck route (including without limitation such matters as security, excessive traffic, Copps Coliseum shows, etc.) the said parking garage exit door will be closed temporarily to prohibit cars from exiting into the new truck route.

- (c) be used in common with such other users as may now be or hereafter be permitted from time to time by the City, including, without limiting the generality of the foregoing, the City, its Trade Centre/Arena, Hamilton Entertainment and Convention Facilities Inc. (H.E.C.F.I.), the Public Library Board, The Hamilton Farmer's Market, Second Phase Civic Square Limited, Fourth Phase Civic Square Limited and GGS Hotel Holdings (Canada) Inc.;
- (d) be used in a reasonable manner, consistent, appropriate and taking into consideration the use and requirements of all other users and which shall not unnecessarily or unreasonably interfere with the use of the new truck route by other users; without limiting the generality of the foregoing, the Lessee covenants to the City that the Lessee's use of the new truck route and the use of those claiming under it shall not unnecessarily or unreasonably interfere with the business of H.E.C.F.I., the Public Library Board or the Hamilton Farmers' Market;
- (e) be controlled in such reasonable manner as may be agreed upon by the City, Fourth Phase and GGS Hotel Holdings Canada Inc.;

- (f) be in compliance with all parliamentary and legislative enactments and with all by-laws and regulations of general application;
- (g) be subject to all rights now or that may hereafter be vested in or reasonably required by the City, The Regional Municipality of Hamilton-Wentworth (herein called "the Region"), or in or by any gas, electric, telephone, telegraph, cable T.V., electric light, or other company, for the operation, maintenance, replacement and repair of the new truck route and of the Copps Coliseum or the adjacent streets including without limitation, the construction, repair, replacement or removal of sewers, culverts, drains, water or gas pipes or the placing of poles or wires (herein called "services"). The City expressly reserves to itself, to H.E.C.F.I. and to the Region the right to construct services or permit services to be constructed on, over, in, under and upon the new truck route and the right to temporarily close the new truck route from time to time to permit the operations contemplated herein; and
- (h) The Lessee covenants and agrees:
 - (i) that it will not bring upon the new truck route or any part thereof, any machinery, equipment, article or thing that by reason of its weight, size or use would in the opinion of the City (acting reasonably) damage the new truck route and will not at any time overload the new truck route by any machinery, equipment, article or thing, or by any act, neglect or misuse on the part of the Lessee or any of its servants, agents or employees or anyone for whom the Lessee is responsible in law. If such overloading shall occur and damage shall ensue, the Lessee shall forthwith repair the same or pay the City the cost of making good the same; and,
 - (ii) that it will not operate, cause to be operated, use or consent to the use of the new truck route or any part

thereof for any purpose other than the purposes permitted in this Agreement.

3. The Lessee acknowledges and agrees that the City, as owner of the new truck route:
 - (a) may grant such further and other easements on, over, under, along and upon the said new truck route, in common with the use thereof by the Lessee, to the occupier of Part Six, the Lessee of Phase Four, the Lessee of Phase Two and the occupiers of Part Seven, subject to the payment of their share of the new truck route's costs.
 - (b) the Lessee agrees that all Rules and Regulations and amendments and supplements thereto as are agreed upon from time to time by the City, Fourth Phase and GGS Hotel Holdings (Canada) Inc., shall be binding upon the Lessee. The Lessee agrees to comply with and observe such Rules and Regulations and amendments and supplements, and any failure by the Lessee to keep and observe the same shall constitute a breach of this Agreement in a manner as if the same were contained herein as covenants. Notice of such Rules and Regulations and amendments and supplements thereto, if any, shall be given to the Lessee by the City. No Rule or Regulation or amendment or supplement thereto shall contradict any provision of this Agreement.
4. The City shall operate, maintain and repair the new truck route and the costs thereof incurred by the City shall be borne, it is agreed, by the City, GGS Hotel Holdings (Canada) Inc., Second Phase Civic Square Limited, the Lessee and such other users permitted by the City in such amounts as may be agreed upon from time to time. Without limiting the generality of the foregoing:
 - (a) it is agreed that the City as owner and manager of the new truck route shall:

(i) manage the new truck route's maintenance, operation and repair and the costs thereof, including, heating, public utilities, ventilation, lighting, electricity (including that used for signs), fire protection equipment, snow removal, cleaning, security, as well as salaries and other remuneration (including contributions towards the usual fringe benefits to and for the benefit of personnel and staff employed to provide the said maintenance, operation and repair), as well as the cost to the City of equipment and the rental of equipment and the cost of supplies used by the City in its maintenance, operation and repair.

(ii) invoice and collect each user's share of these costs.

- (b) it is agreed that the said costs of the new truck route (herein called the "new truck route's costs") to be shared amongst the users shall include the costs or expenses for each of the matters in paragraph 4(a)(i) above including an administration overhead charge equal to fifteen per cent (15%) of the new truck route costs;
- (c) The Lessee covenants to pay to the City the Lessee's share of the new truck route costs.
- (d) The City agrees that the new truck route costs shall not include costs related to the matters referred to in paragraph 2(h)(i) or in 6(e) where such costs are those of the City, its servants, agents, employees, contractors, licensees or anyone for whom in law it is responsible and any other user, except the Lessee when such costs are the responsibility of the Lessee pursuant to such paragraphs.

5. (a) All calculations made or referred to herein shall be made in accordance with generally accepted accounting principles and practices applied on a consistent basis. Subject as hereinafter provided, the Lessee agrees that any monies, expenses or charges which are to be paid by the Lessee to the City are due and payable within thirty

(30) days of receipt of invoice and thereafter interest on any amount unpaid shall accrue at the then Bank of Montreal prime rate plus three percent (3%) per annum until paid.

For the purposes hereof, "prime rate" means the floating annual rate of interest established from time to time by Bank of Montreal as the rate it will use to determine rates of interest payable by its borrowers on Canadian dollar commercial loans made by Bank of Montreal to such borrowers in Canada and designated by the Bank of Montreal as its prime rate.

- (b) If the Lessee shall fail or neglect to conform or comply with any of the terms, covenants and conditions contained in this Agreement (other than the covenants to pay sums required to be paid to the City by any provision of this Agreement), the City may notify the Lessee in writing of the default and the Lessee shall forthwith, after receiving such Notice, commence to and shall remedy the breach complained of in such Notice within 45 days if the breach is capable of being remedied within such period and otherwise shall prosecute same with diligence to completion in the shortest period reasonably possible after the date of receipt of such Notice.
- (c) If any sum of money required to be paid to the City by any provision in this Agreement shall not be paid by the Lessee when such payment is due, the provisions of paragraph 14(i)(ii) and 14(i)(iii) of the Interface Agreement shall be applicable.
- (d) If the Lessee does not comply with paragraph 5(b) hereof as required, the City may take either or both of the following steps in addition to or together with any other remedy available at law to the City:
 - (i) The City, (provided the matters in dispute shall not have been referred to arbitration) on not less than sixty (60) days' notice to the Lessee, may terminate this

Easement Agreement unless within such sixty (60) day notice period the Lessee shall comply with paragraph 5(b) hereof; or,

(ii) Such breach or default may, at the option of the City, be deemed to constitute a default of the Lessee under the Ground Lease and after it has then given the Notice of default pursuant to the Ground Lease, the City shall have its rights under the Ground Lease.

6. (a) Notwithstanding that the Lessee shall have complied in all respects with its obligations under this Agreement, if the City wishes to establish an alternate new truck route, then, on not less than one (1) year's prior written notice to the Lessee given by the City, this easement agreement shall terminate as of the date stated in the notice.
- (b) In the event that this easement agreement is terminated in accordance with the preceding provision 6(a), the City shall provide for an alternate truck route or routes permitting the Lessee access to and egress from the loading dock and a new easement therefor. Such alternate truck route may be temporary during construction (whether before or subsequent to the termination as aforesaid) and will be specifically determined thereafter, provided that during construction of an alternative truck route, a temporary truck route permitting the Lessee access to and egress from the said loading dock will be available.
- (c) The Lessee acknowledges and agrees that the new truck route (or portions of it) may be closed for such time as may be reasonably necessary for repairs, maintenance and alterations or due to unforeseen and unusual circumstances. In particular and without limiting the generality of the foregoing, the City shall be entitled to close the new truck route at any time or from time to time throughout the term hereof, upon at least seven (7) days' notice to the Lessee, for such temporary periods of time as may be

bind and run with the leasehold land described in Schedule "B".

- (b) In the event that the Ground Lease with the Lessee is terminated prior to the expiration of its term, this Easement Agreement shall also terminate.
- (c) The Lessee covenants and agrees that subject to the terms of its Ground Lease it will not dispose, by way of sale, transfer and/or assignment, or in any other way whatsoever, of any of its interests in the leasehold land described in Schedule "B" and in this Agreement unless and until such disposition is in compliance with the following:
 - (i) Except in the case of the foregoing by way of charge or mortgage, the Lessee shall have first acquired from any such purchaser, transferee or assignee, on closing, their Undertaking to the City, satisfactory to the City acting reasonably to abide by and be bound by all of the terms, covenants and conditions of this Agreement and without delivering such undertaking to the City. The Undertaking shall be in the form attached hereto as Schedule "D". Such undertaking after execution by the parties thereto shall forthwith be registered on title by the party subsequent in interest;
 - (ii) the party subsequent in interest to the Lessee must receive not less than all of the Lessee's interest in this Easement Agreement.
- (d) In the event of the foregoing by way of charge or mortgage, the Lessee covenants and agrees that it will not mortgage or charge any of its Leasehold Land described in Schedule "B" nor this Easement Agreement without first acquiring from any such Mortgagee its covenant to the City to comply with this Agreement in the same manner that the Mortgagee is required by sec.16.01 of the Ground Lease to agree to comply with the Ground Lease. Such covenant

shall form part of the Mortgagee's Agreement with the City entered into pursuant to sec.16.01 of the Ground Lease.

12. (a) This Agreement is subject to and shall not take effect until the following approvals are received:

- (i) the approval of the Ontario Provincial Minister of Municipal Affairs and Housing; and,
- (ii) the approval of Canada Mortgage and Housing Corporation.

- (b) The City will apply for the approvals set out in paragraph 12(a) and take all necessary steps for such applications. the Lessee agrees to co-operate in the obtaining of such approvals.

13. Time shall be of the essence of this Agreement.

14. (a) Any notice required or permitted to be given hereunder shall be sufficiently given if in writing and mailed by registered mail, postage prepaid, as follows:

If to the Lessee:

Fourth Phase Civic Square Limited
c/o Yale Properties Limited
2015 Peel Street
Montreal, Quebec
H3A 1T8

Attention: Mr. Emile Mashaal

With a copy to:

Messrs. Milligan, Gresko, Charuk & Rogers
Barristers & Solicitors
330-110 King Street West
Hamilton, Ontario
L8M 3M8

Attention: Mr. James G. Milligan

If to the City:

The Corporation of the City of Hamilton
City Hall
Attention: City Clerk
71 Main Street West
P.O. Box 2040
Hamilton, Ontario
L8N 3T4

- (b) Any notice mailed as aforesaid shall be deemed to have been given and received on the fifth (5th) business day following the date of such mailing. Any party hereto may at any time give notice to any one or more of the parties hereto by a notice in writing served personally upon an Officer of such party or parties or in the case of the City, upon an official of the City, in which case, notice shall be deemed to be given and received on the day of such personal service.
- (c) Any party may at any time give notice to the other parties of any change of address of the party giving such notice and from and after the giving of such notice, the address therein specified shall be deemed to be the address of such party and any party may require that notice be given to other persons, corporations or entities who or which may or may not have an interest in this Agreement and upon the giving of notice of such requirement and the address for such required notice, then such person, corporation or entity shall be deemed to have been named above for the purpose of giving and receiving notice thereafter.
- (d) The captions used in this Agreement are for convenience only and shall not be construed in interpreting this Agreement. Wherever from the context it appears appropriate, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in the masculine or the neuter gender shall include the masculine and neuter.
- (e) The parties agree that all of the provisions of this Agreement are to be construed as covenants and agreements as though the words importing such covenants and agreements were used in each separate paragraph hereof. Should any provision or provisions of this Agreement be illegal or not enforceable, it or they shall be considered separate and severable from the Agreement and its remaining provisions shall remain in full force and be

binding upon the parties hereto as though the said provision or provisions had never been included.

15. The parties agree that the arbitration provision contained in Section 12 of the Interface Agreement shall apply to any dispute which arises in respect of the provisions hereof.

16. (a) In consideration for the grant of the herein Easement to the Lessee, the Lessee hereby agrees and confirms that the Lessee has no right, title or interest to a vehicular access easement from the City pursuant to Schedule "C" of the Ground Lease to the Lessee or from the City pursuant to the Hotel Interface Agreement or from the City pursuant to the herein agreement, except in that land known herein as the new truck route and defined herein as Part 1 on Plan 62R-8136. For greater certainty, the Lessee hereby confirms and agrees that it has no right, title or interest (pursuant to Schedule "C" of the Ground Lease to Fourth Phase, or pursuant to the Hotel Interface Agreement or pursuant to the herein agreement.) to a vehicular access easement in land described as Parts 2 and 3 on Plan 62R-8136 and in those portions of Parts 4 and 5 on Plan 62R-5316 which are in excess of the land comprising the new truck route defined herein as Part 1 on Plan 62R-8136.

- (b) The Lessee acknowledges and agrees that any alteration to its improvements upon its demised premises which increases the size of its loading dock or provides an additional access point between the new truck route and the demised premises leased to Fourth Phase, is subject to the approvals of the Lessor under Section 6.04 of the Ground Lease for alterations to the external appearance of its demised premises.

17. This Agreement may be executed in several counterparts each of which when executed by the parties shall be deemed to be an original and such counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF the parties have hereunto caused to be affixed their respective corporate seals attested by the signatures of their respective proper officers duly authorized in that behalf.

THE CORPORATION OF THE CITY OF HAMILTON

_____(c/s)
Mayor

City Clerk

FOURTH PHASE CIVIC SQUARE LIMITED

Per: _____(c/s)
President

Per: _____
Secretary

LIST OF SCHEDULES

(attached to and forming part of an Agreement dated February 8, 1990 entered into between THE CORPORATION OF THE CITY OF HAMILTON and FOURTH PHASE CIVIC SQUARE LIMITED.)

- | | | |
|--------------|---|---|
| Schedule "A" | - | Legal description of new truck route |
| Schedule "B" | - | Legal description of the Lessee's leasehold premises |
| Schedule "C" | - | Legal description of land on which Fourth Phase loading dock is constructed |
| Schedule "D" | - | Blank form of Undertaking Agreement |

SCHEDULE "D"

(Attached to and forming part of the AGREEMENT dated _____, 19____ entered into between THE CORPORATION OF THE CITY OF HAMILTON and _____)

THIS AGREEMENT made as of the day of
19 .

B E T W E E N:

(hereinafter called the "Successor")

OF THE FIRST PART

- and -

(hereinafter called the "Lessee")

OF THE SECOND PART

- and -

THE CORPORATION OF THE CITY OF HAMILTON

(hereinafter called the "City")

OF THE THIRD PART

WITNESSETH THAT:

WHEREAS by a Ground Lease dated _____, wherein the City did demise and lease unto the Lessee the land therein described, which land (hereinafter called the "**Leasehold Land**") is described in Schedule "A" attached hereto, for and during the term of years to be complete and ended on the 31st day of October, 2069 at and under the yearly rental, covenants, conditions and agreements expressed and declared in the said Ground Lease which lease was registered as Instrument No. _____;

AND WHEREAS by the Agreement dated _____, the City did grant to the Lessee, the right, interest and easement in the land described in Schedule "B" attached hereto to use a new truck route adjacent to the Copps Coliseum subject to the terms and conditions contained therein; (hereinafter this Agreement shall be referred to as the "Easement Agreement");

AND WHEREAS it is a term of the Easement Agreement that the Lessee shall not sell, transfer or assign any of its leasehold interest without first requiring any such purchaser or assignee (hereinafter called the "Successor") to enter into this Agreement with the City (hereinafter called the "Agreement") with respect to the said Easement Agreement;

AND WHEREAS the Lessee has entered into an Agreement dated
with the Successor (hereinafter called the
"Contract");

NOW THEREFORE in consideration of the sum of FIVE-----(\$5.00)-----DOLLARS and other good and valuable consideration paid by the City to each of the other parties hereto (the receipt in sufficiency whereof being hereby acknowledged), the parties hereto acknowledge, covenant and agree as follows:

1. (a) The Successor and the Lessee agree with each other and covenant to the City that the Contract is expressly subject to the rights of the City and to the obligations of the Lessee under the Easement Agreement.-

(b) The Successor hereby undertakes, covenants, promises and agrees to the Lessee and to the City that the Successor shall perform and abide by and be bound by at all times all of the terms, covenants and conditions and obligations on the part of the Lessee contained in the Easement Agreement and that the City shall be entitled to all remedies in respect of breaches of covenants and conditions as if the Successor were named in the Easement Agreement.

(c) The Successor shall at all times comply with the terms, provisions and conditions of the Easement Agreement and do all such acts, matters and things as may be requisite and necessary to maintain the Easement Agreement in good standing at all times and, without limiting the generality of the foregoing, it is further acknowledged and agreed by the Lessee and the Successor that the obligations of the Lessee under the Contract shall be subject always to the Lessee's obligation under the Easement Agreement not to do or allow to be done any act or omission or other matter or thing which shall constitute or be deemed to constitute a default under the Easement Agreement.

(d) The Lessee and the Successor hereby covenant with each other that the Contract between them is subject to an obligation and covenant between them not to do or allow to be done any act or omission or other matter or thing which shall constitute or be deemed to constitute a default under the Easement Agreement and covenant further to do all such acts, matters and things as may be requisite and necessary to maintain the Easement Agreement in good standing at all times.

(e) The Lessee and the Successor hereby acknowledge and agree that wherever and whenever a conflict shall arise between the rights of The Corporation of the City of Hamilton under the Easement Agreement and the provisions of the Contract, the rights of the City shall prevail.

(f) This Agreement shall be registered by the Successor in the Land Registry Office against the Lessee's Leasehold Land described in Schedule "A" forthwith after its execution.

(g) This Agreement is entered into and delivered to the City as required by the Easement Agreement. It only fulfils the obligations of the Successor named herein. Other parties subsequent in interest to the Lessee including the assigns of the Successor are required to enter into their own Agreement with the City.

(h) This Agreement to the City shall in no way affect or release the Lessee from its liabilities and responsibilities under the terms of the Easement Agreement arising or relating to the period ending on the date of registration of this Agreement and the Lessee covenants and agrees with the City that it shall remain responsible for all of such liabilities and responsibilities during such period notwithstanding this Agreement nor the Contract. By joining in this Agreement, the City does not thereby acknowledge or approve of any of the terms of the Contract between the Lessee and the Successor. From and after the date the Successor has satisfied the requirements in the Easement Agreement for the assignment of such Agreement to the Successor (including the execution and registration of this Agreement), the Lessee, shall be released from its obligations contained in the Easement Agreement and in this Agreement for matters arising prior to such date of registration.

2. (a) Any notice in writing required or permitted to be given to the Lessee hereunder shall be given by registered mail, postage prepaid, addressed to:

(b) Any notice in writing required or permitted to be given to the Successor hereunder shall be given by registered mail, postage prepaid, addressed to:

(c) Any notice in writing required or permitted to be given to the City shall be given by registered mail, postage prepaid, addressed to:

The Corporation of the City of Hamilton
 Attention: City Clerk
 City Hall
 71 Main Street West
 P.O. Box 2040
 Hamilton, Ontario
 L8N 3T4

(d) Any such notice mailed as aforesaid shall be deemed to have been given to the recipient on the fifth business day following the date of such mailing.

(e) Any party may at any time give notice to each of the other parties of any change of address of the party giving such notice and from and after the giving of such notice the address therein specified shall be deemed to be the address of such party.

3. Each of the parties hereto covenants and agrees with the others of them to do all such acts, matters and things as may be requisite and necessary to give full force and effect to the provisions of this Undertaking and to carry out and perform the same in accordance with its terms.

4. This Indenture may be executed in several counterparts each of which when executed shall be deemed to be an original and such counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF the parties hereto have duly executed these presents.

Per: _____ c/s

Per: _____

THE CORPORATION OF THE CITY OF HAMILTON

 Mayor c/s

 City Clerk

Per: _____ c/s
 (referred to as "the Successor")

Per: _____

Schedule "A" - Leasehold Land

Schedule "B" - Legal description of truck route

A P P E N D I X "D"

THIS AGREEMENT made this 12th day of February, 1990.

B E T W E E N:

SECOND PHASE CIVIC SQUARE LIMITED

Hereinafter called the "Second Phase"

OF THE FIRST PART,

- and -

THE CORPORATION OF THE CITY OF HAMILTON

Hereinafter called the "City"

OF THE SECOND PART

WHEREAS:

1. The City has entered into a Ground Lease with Second Phase Civic Square Limited in respect of the land described in Schedule "E" attached hereto; said Lease dated November 19, 1975, is registered as Instrument No. 21613 C.D.;
2. A reconstructed and extended truck route was completed by the City on the land described in Schedule "B" attached hereto (hereinafter referred to as the "new truck route") on or about the 29th day of November, 1985.
3. The City has constructed a building for the new central Library of The Hamilton Public Library Board and for The Hamilton Farmer's Market upon the land described in Schedule "C" attached hereto (hereinafter referred to as the Library/Farmer's Market complex); trucks and other vehicles to the Library and to the Farmer's Market building use as a portion of their exit route a portion of the demised premises leased to Second Phase by the City which portion of the demised premises is described in Schedule "A" (hereinafter referred to as the "vehicular access route").
4. The parties hereby wish to enter into this Easement Agreement in respect of such vehicular access route through the demised premises of Second Phase.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and the sum of TWO DOLLARS (\$2.00)

now paid by each party to the other (the receipt of which is acknowledged), the parties hereto agree as follows:

1. Subject to the conditions contained herein, Second Phase hereby transfers in common with all others entitled thereto from time to time, to the City, to be enjoyed and used as appurtenant to the City's land described in Schedule "C" attached hereto, for and during the balance of the term of the Ground Lease to Second Phase less one day, (namely, commencing on the date hereof and ending on October 30, 2069 unless the Ground Lease is terminated earlier than October 30, 2069), on, over, along and upon the vehicular access route, the non-exclusive right, interest and EASEMENT to enter onto and use the Schedule "A" leasehold land as a right-of-way for vehicular access only in a one way direction commencing at the Easterly limit of the Schedule "A" leasehold land and continuing along and upon the vehicular access route to the new truck route;
2. The City covenants and agrees that its use of the vehicular access route shall:
 - (a) be limited to trucks and other vehicles delivering or removing to and from the City's Library/Farmer's Market complex, supplies, materials, equipment, furniture, garbage and such other matters and things as may reasonably be required by the City, its suppliers, contractors, employees, agents and commercial tenants and all those claiming under them, including without limitation The Hamilton Public Library Board and The Hamilton Farmer's Market.
 - (b) be used solely by the City, its suppliers, contractors, employees, agents and tenants and all those claiming under them for the purposes set out in paragraph (a) above and shall not be used for the transportation of persons without limitation, employees, guests or visitors nor shall it be used for any other purpose including, without

limitation, by taxis or by cars for access to and from any car parking lot or garage;

- (c) be used in common with such other users as may now be or hereafter be permitted from time to time by Second Phase;
- (d) be used in a reasonable manner, consistent, appropriate and taking into consideration the use and requirements of all other users and which shall not unnecessarily or unreasonably interfere with the use of the vehicular access route by other users; without limiting the generality of the foregoing, the City covenants to Second Phase that the City's use and the use of those claiming under it of the vehicular access route shall not unnecessarily or unreasonably interfere with the business of Second Phase;
- (e) be controlled in such reasonable manner as may be agreed upon by the City and Second Phase;
- (f) be in compliance with all parliamentary and legislative enactments and with all by-laws and regulations of general application; and
- (g) Second Phase expressly reserves itself the right to construct or permit to be constructed, services for utilities on, over, in, under and upon the vehicle access route and the right to temporarily close the vehicle access route from time to time to permit the operations contemplated herein; and
- (h) The City covenants and agrees:
 - (i) that it will not bring upon the vehicular access route or any part thereof, any machinery, equipment, article or thing that by reason of its weight, size or use would in the opinion of Second Phase (acting reasonably) damage the vehicular access route and will not at any time overload the vehicular access route by any machinery, equipment, article or thing, or by any act, neglect or misuse on the part of the City or any of its servants, agents or employees or anyone for whom the City is

5. (a) All calculations made or referred to herein shall be made in accordance with generally accepted accounting principles and practices applied on a consistent basis. Subject as hereinafter provided, the City agrees that any monies, expenses or charges which are to be paid by the City to Second Phase are due and payable within thirty (30) days of receipt of invoice and thereafter interest on any amount unpaid shall accrue at the then Bank of Montreal prime rate plus three percent (3%) per annum until paid.

For the purposes hereof, "prime rate" means the floating annual rate of interest established from time to time by Bank of Montreal as the rate it will use to determine rates of interest payable by its borrowers on Canadian dollar commercial loans made by Bank of Montreal to such borrowers in Canada and designated by the Bank of Montreal as its prime rate.

- (b) If the City shall fail or neglect to conform or comply with any of the terms, covenants and conditions contained in this Agreement (other than the covenants to pay sums required to be paid to Second Phase by any provision of this Agreement), Second Phase may notify the City in writing of the default and the City shall forthwith, after receiving such Notice, commence to and shall remedy the breach complained of in such Notice within 45 days if the breach is capable of being remedied within such period and otherwise shall prosecute same with diligence to completion in the shortest period reasonably possible after the date of receipt of such Notice.
- (c) If any sum of money required to be paid to Second Phase by any provision in this Agreement shall not be paid by the City when such payment is due, the provisions of paragraph 14(i)(ii) and 14(i)(iii) of the Interface Agreement shall be applicable.

- (d) If the City does not comply with paragraph 5(b) hereof as required, Second Phase in addition to or together with any other remedy available at law to Second Phase (provided the matters in dispute shall not have been referred to arbitration) on not less than sixty (60) days' notice to the City, may terminate this Easement Agreement unless within such sixty (60) day notice period the City shall comply with paragraph 5(b) hereof.
6. (a) Notwithstanding that the City shall have complied in all respects with its obligations under this Agreement, if Second Phase wishes to establish an alternate vehicular access route, then, on not less than one (1) year's prior written notice to the City given by Second Phase, this easement agreement shall terminate as of the date stated in the notice.
- (b) In the event that this easement agreement is terminated in accordance with the preceding provision 6(a), Second Phase shall provide for an alternate vehicular access route or routes and a new easement therefor. Such alternate vehicular access route may be temporary during construction (whether before or subsequent to the termination as aforesaid) and will be specifically determined thereafter, provided that during construction of an alternative vehicular access route, a temporary vehicular access route will be available.
- (c) The City acknowledges and agrees that the vehicular access route (or portions of it) may be closed for such time as may be reasonably necessary for repairs, maintenance and alterations or due to unforeseen and unusual circumstances. In particular and without limiting the generality of the foregoing, Second Phase shall be entitled to close the vehicular access route at any time or from time to time throughout the term hereof, upon at least seven (7) days' notice to the City, for such temporary periods of time as

may be reasonably necessary for the purpose of fulfilling its obligations and exercising its rights under this Agreement, and the City shall not be entitled to claim from or be paid any amount by Second Phase in respect of such closure or resulting inconvenience or expense.

- (d) Anything in this Agreement to the contrary notwithstanding, providing such cause is not due to the wilful act or omission of Second Phase, Second Phase shall not be deemed in default with respect to the performance or fulfilment of any of the terms, covenants and conditions of this Agreement if the same shall be due to any cause beyond Second Phase's control or otherwise including, without limitation, strike, lockout, failure of powers, civic commotion, warlike operation, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls, inability to obtain any material or service, or non-delivery of equipment, or through Act of God.
- (e) If the vehicular access route, including its doors, equipment and fixtures including the entrances thereto, the boilers, engines, pipes and other apparatus (or any of them) used for the purpose of heating or air conditioning or the ceiling, walls or floors of the vehicular access route or any part thereof become damaged or destroyed through the negligence, carelessness or misuse of the City, its servants, agents, employees, contractors, licensees or anyone for whom in law the City is responsible, or through it or them in any way stopping up or injuring the heating apparatus, water pipes, drainage pipes or other equipment or part of the site, the expense of the necessary repairs, replacements or alterations shall be borne by the City who shall pay the same to Second Phase forthwith upon demand.

7. The City hereby agrees to indemnify and save harmless Second Phase against and from all actions, causes of action, interest, claims, demands, costs, damages, expenses or loss which the Second Phase may bear, suffer, incur, become liable for or be put to by reason of any damage to property or injury or death to persons by reason of, arising out of or in consequence any breach, violation or non-performance by the City or anyone for whom the City is responsible in law of any provision of this Agreement, or by reason of or arising out of its use of the vehicular access route or any part thereof or by reason of or arising out of any fault, neglect or default by the City or of any of its agents or employees or any other person or persons for whom the City is responsible in law in or on the vehicular access route. The rights to indemnity contained in this paragraph shall survive any termination of this Agreement, in respect of any matter arising prior to such termination, anything in this Agreement to the contrary notwithstanding.
8. This Agreement may not be modified or amended, except by an instrument in writing of equal formality herewith.
9. No waiver by any of the parties hereto of the breach of any covenant or provision hereunder shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenants or provisions hereunder. No waiver shall be effective unless in writing.
10. This Agreement shall be registered on title to the land described in Schedules "A" and "C" by the City forthwith after its execution by the parties hereto.
11. (a) This Agreement shall be binding upon and shall enure to the benefit of the City, its successors and its assigns

and this Agreement shall bind and run with the land described in Schedule "A".

- (b) In the event that the Ground Lease to Second Phase is terminated prior to the expiration of its term, this Easement Agreement shall also terminate.
- (c) The City covenants and agrees that it will not dispose, by way of sale, transfer and/or assignment, or in any other way whatsoever, of any of its interests in the land described in Schedule "A" pursuant to this Agreement unless and until such disposition is in compliance with the following:
 - (i) The City shall have first acquired from any such purchaser, transferee or assignee, on closing, their Undertaking to Second Phase, satisfactory to Second Phase acting reasonably to abide by and be bound by all of the terms, covenants and conditions of this Agreement and without delivering such undertaking to Second Phase. The Undertaking shall be in the form attached hereto as Schedule "D". Such undertaking after execution by the parties thereto shall forthwith be registered on title by the party subsequent in interest;
 - (ii) the party subsequent in interest to the City must receive not less than all of the City's interest in this Easement Agreement.

- 12. (a) This Agreement is subject to and shall not take effect until the following approvals are received:
 - (i) the approval of the Ontario Provincial Minister of Municipal Affairs and Housing; and,
 - (ii) the approval of Canada Mortgage and Housing Corporation.
- (b) The City will apply for the approvals set out in paragraph 12(a) and take all necessary steps for such applications. Second Phase agrees to co-operate in the obtaining of such approvals.

13. Time shall be of the essence of this Agreement.

14. (a) Any notice required or permitted to be given hereunder shall be sufficiently given if in writing and mailed by registered mail, postage prepaid, as follows:

If to Second Phase:

Second Phase Civic Square Limited
c/o Yale Properties Limited
2015 Peel Street
Montreal, Quebec
H3A 1T8

Attention: Mr. Emile Mashaal

With a copy to:

Messrs. Milligan, Gresko, Charuk & Rogers
Barristers & Solicitors
330-110 King Street West
Hamilton, Ontario
L8M 3M8

Attention: Mr. James G. Milligan

If to the City:

The Corporation of the City of Hamilton
City Hall
Attention: City Clerk
71 Main Street West
P.O. Box 2040
Hamilton, Ontario
L8N 3T4

(b) Any notice mailed as aforesaid shall be deemed to have been given and received on the fifth (5th) business day following the date of such mailing. Any party hereto may at any time give notice to any one or more of the parties hereto by a notice in writing served personally upon an Officer of such party or parties or in the case of the City, upon an official of the City, in which case, notice shall be deemed to be given and received on the day of such personal service.

(c) Any party may at any time give notice to the other parties of any change of address of the party giving such notice and from and after the giving of such notice, the address therein specified shall be deemed to be the address of such party and any party may require that notice be given

to other persons, corporations or entities who or which may or may not have an interest in this Agreement and upon the giving of notice of such requirement and the address for such required notice, then such person, corporation or entity shall be deemed to have been named above for the purpose of giving and receiving notice thereafter.

- (d) The captions used in this Agreement are for convenience only and shall not be construed in interpreting this Agreement. Wherever from the context it appears appropriate, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in the masculine or the neuter gender shall include the masculine and neuter.
- (e) The parties agree that all of the provisions of this Agreement are to be construed as covenants and agreements as though the words importing such covenants and agreements were used in each separate paragraph hereof. Should any provision or provisions of this Agreement be illegal or not enforceable, it or they shall be considered separate and severable from the Agreement and its remaining provisions shall remain in full force and be binding upon the parties hereto as though the said provision or provisions had never been included.

- 15. Subsequent to the execution of this Agreement, Second Phase will request from its mortgagee or mortgagees, as the case may be, a non disturbance agreement in favour of the City, of this Easement in the event such mortgagee(s) shall exercise its security, provided the City shall be fulfilling all of its obligations relating to this Easement and this Agreement. Second Phase shall use its reasonable efforts to obtain such non disturbance agreement. It shall be a term of the said non disturbance agreement that it shall be in favour of the City, its successors and assigns and that the mortgagee shall postpone its mortgage to the Easement granted herein to the City.

16. This Agreement may be executed in several counterparts each of which when executed by the parties shall be deemed to be an original and such counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF the parties have hereunto caused to be affixed their respective corporate seals attested by the signatures of their respective proper officers duly authorized in that behalf.

THE CORPORATION OF THE CITY OF HAMILTON

Mayor (c/s)

City Clerk

SECOND PHASE CIVIC SQUARE LIMITED

Per: _____ (c/s)
President

Per: _____
Secretary

LIST OF SCHEDULES

(attached to and forming part of an Agreement dated February 12, 1990 entered into between THE CORPORATION OF THE CITY OF HAMILTON and SECOND PHASE CIVIC SQUARE LIMITED.)

- | | | |
|--------------|---|---|
| Schedule "A" | - | Legal description of vehicular access route |
| Schedule "B" | - | Legal description of new truck route |
| Schedule "C" | - | Legal description of City's Library/Farmer's Market Complex |
| Schedule "D" | - | Blank form of Undertaking Agreement |
| Schedule "E" | - | Demised premises leased to Second Phase |

A P P E N D I X "E"

THIS AGREEMENT made this 26th day of February, 1990.

B E T W E E N:

THE CORPORATION OF THE CITY OF HAMILTON

Hereinafter called the "City"

OF THE FIRST PART,

- and -

SECOND PHASE CIVIC SQUARE LIMITED

Hereinafter called "Lessee"

OF THE SECOND PART

WHEREAS:

1. The City has entered into a Ground Lease with Second Phase Civic Square Limited in respect of the land described in Schedule "B" attached hereto, such Lease dated November 19, 1975, is registered as Instrument No. 21613 C.D.;
2. The City has constructed a building for the central branch of the Hamilton Public Library Board and for the Hamilton Farmer's Market (hereafter this building is referred to as the "Library/Farmer's Market Complex").
3. The City has constructed a truck route which is described in Schedule "A" attached hereto (hereinafter referred to as the "truck route") through a portion of City land to provide trucks access to and from the loading docks of the Library/Farmer's Market Complex.
4. A reconstructed and extended truck route was completed by the City on the land described in Schedule "C" attached hereto (hereinafter referred to as the "new truck route") on or about the 29th day of November, 1985.
5. The Lessee has constructed a truck tunnel through a portion of its demised premises (said tunnel described in Schedule "C" attached hereto is hereinafter referred to as the "Second Phase truck route"), which tunnel connects the City's truck route with the City's new truck route;

6. The Lessee has requested the City to grant the Lessee an Easement in the "truck route" and the parties enter into this Agreement for that purpose.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and the sum of TWO DOLLARS (\$2.00) now paid by each party to the other (the receipt of which is acknowledged), the parties hereto agree as follows:

1. Subject to the conditions contained herein, the City hereby transfers in common with all others entitled thereto from time to time, to the Lessee, to be enjoyed and used as appurtenant to the Lessee's leasehold land described in Schedule "B" attached hereto, for and during the balance of the term of the Ground Lease to the Lessee less one day, (namely, commencing on the date hereof and ending on October 30, 2069 unless the Ground Lease is terminated earlier than October 30, 2069), on, over, along and upon the truck route, the non-exclusive right, interest and EASEMENT to enter onto and use the Schedule "A" land as a right-of-way for vehicular access only in a one way direction as follows:

(a) commencing at the Easterly limit of the truck route and continuing in a one way direction along the truck route to connect with the Second Phase truck route for the purpose of using a loading dock or docks which may abut the Second Phase truck route in the future.

2. The Lessee covenants and agrees that its use of the truck route shall:

(a) be limited to trucks and other vehicles delivering or removing supplies, materials, equipment, furniture, garbage and such other matters and things as may reasonably be required by the Lessee, its suppliers, contractors, employees, agents and commercial tenants and all those claiming under them, to and from a loading dock or docks on its demised premises that abut the Second Phase truck route;

(b) be used solely by the Lessee, its suppliers, contractors, employees, agents and commercial tenants and all those claiming under them for the purposes set out in paragraph

- (a) above, (and shall not be used for the transportation of persons to and from the Lessee's premises described in Schedule "B" including, without limitation employees, guests or visitors nor shall it be used for any other purpose including, without limitation, by taxis or by cars for access to and from any car parking lot or garage.)
- (c) be used in common with such other users as may now be or hereafter be permitted from time to time by the City, including, without limiting the generality of the foregoing, the City, its Trade Centre/Arena, Hamilton Entertainment and Convention Facilities Inc. (H.E.C.F.I.), the Public Library Board, The Hamilton Farmer's Market.
- (d) be used in a reasonable manner, consistent, appropriate and taking into consideration the use and requirements of all other users and which shall not unnecessarily or unreasonably interfere with the use of the truck route by other users; without limiting the generality of the foregoing, the Lessee covenants to the City that the Lessee's use of the truck route and the use of those claiming under it shall not unnecessarily or unreasonably interfere with the business of the Public Library Board or the Hamilton Farmers' Market;
- (e) be controlled in such reasonable manner as may be agreed upon by the City and Second Phase;
- (f) be in compliance with all parliamentary and legislative enactments and with all by-laws and regulations of general application;
- (g) be subject to all rights now or that may hereafter be vested in or reasonably required by the City, The Regional Municipality of Hamilton-Wentworth (herein called "the Region"), or in or by any gas, electric, telephone, telegraph, cable T.V., electric light, or other company, for the operation, maintenance, replacement and repair of the truck route and of the Library/Farmer's Market Complex or the adjacent streets including without limitation, the construction, repair, replacement or removal of sewers, culverts, drains, water or gas pipes or the placing of

poles or wires (herein called "services"). The City expressly reserves to itself, to H.E.C.F.I. and to the Region the right to construct services or permit services to be constructed on, over, in, under and upon the truck route and the right to temporarily close the truck route from time to time to permit the operations contemplated herein; and

(h) The Lessee covenants and agrees:

(i) that it will not bring upon the truck route or any part thereof, any machinery, equipment, article or thing that by reason of its weight, size or use would in the opinion of the City (acting reasonably) damage the truck route and will not at any time overload the truck route by any machinery, equipment, article or thing, or by any act, neglect or misuse on the part of the Lessee or any of its servants, agents or employees or anyone for whom the Lessee is responsible in law. If such overloading shall occur and damage shall ensue, the Lessee shall forthwith repair the same or pay the City the cost of making good the same; and,

(ii) that it will not operate, cause to be operated, use or consent to the use of the truck route or any part thereof for any purpose other than the purposes permitted in this Agreement.

3. The Lessee acknowledges and agrees that the City, as owner of the truck route:

(a) may grant such further and other easements on, over, under, along and upon the said truck route, in common with the use thereof by the Lessee, to the occupier of Part Six, the Lessee of Phase Four, the Lessee of Phase Two and the occupiers of Part Seven, subject to the payment of their share of the truck route's costs.

(b) the Lessee agrees that all Rules and Regulations and amendments and supplements thereto as are agreed upon from time to time by the City and Second Phase, shall be binding upon the Lessee. The Lessee agrees to comply with and observe such Rules and Regulations and amendments and

supplements, and any failure by the Lessee to keep and observe the same shall constitute a breach of this Agreement in a manner as if the same were contained herein as covenants. Notice of such Rules and Regulations and amendments and supplements thereto, if any, shall be given to the Lessee by the City. No Rule or Regulation or amendment or supplement thereto shall contradict any provision of this Agreement.

4. The City shall operate, maintain and repair the truck route and the costs thereof incurred by the City shall be borne, it is agreed, by the City and the Lessee and such other users permitted by the City in such amounts as may be agreed upon from time to time. Without limiting the generality of the foregoing:

- (a) it is agreed that the City as owner and manager of the truck route shall:
 - (i) manage the truck route's maintenance, operation and repair and the costs thereof, including, heating, public utilities, ventilation, lighting, electricity (including that used for signs), fire protection equipment, snow removal, cleaning, security, as well as salaries and other remuneration (including contributions towards the usual fringe benefits to and for the benefit of personnel and staff employed to provide the said maintenance, operation and repair), as well as the cost to the City of equipment and the rental of equipment and the cost of supplies used by the City in its maintenance, operation and repair.
 - (ii) invoice and collect each user's share of these costs.
- (b) it is agreed that the said costs of the truck route (herein called the "truck route's costs") to be shared amongst the users shall include the costs or expenses for each of the matters in paragraph 4(a)(i) above including an administration overhead charge equal to fifteen per cent (15%) of the truck route costs;
- (c) The Lessee covenants to pay to the City the Lessee's share of the truck route costs.

- (d) The City agrees that the truck route costs shall not include the costs related to the matters referred to in paragraph 2(h)(i) or in 6(e) where such costs are those of the City, its servants, agents, employees, contractors, licensees or anyone for whom in law it is responsible, and any other user except the Lessee when such costs are the responsibility of the Lessee pursuant to such paragraphs.

5. (a) All calculations made or referred to herein shall be made in accordance with generally accepted accounting principles and practices applied on a consistent basis. Subject as hereinafter provided, the Lessee agrees that any monies, expenses or charges which are to be paid by the Lessee to the City are due and payable within thirty (30) days of receipt of invoice and thereafter interest on any amount unpaid shall accrue at the then Bank of Montreal prime rate plus three percent (3%) per annum until paid.

For the purposes hereof, "prime rate" means the floating annual rate of interest established from time to time by Bank of Montreal as the rate it will use to determine rates of interest payable by its borrowers on Canadian dollar commercial loans made by Bank of Montreal to such borrowers in Canada and designated by the Bank of Montreal as its prime rate.

- (b) If the Lessee shall fail or neglect to conform or comply with any of the terms, covenants and conditions contained in this Agreement (other than the covenants to pay sums required to be paid to the City by any provision of this Agreement), the City may notify the Lessee in writing of the default and the Lessee shall forthwith, after receiving such Notice, commence to and shall remedy the breach complained of in such Notice within 45 days if the breach is capable of being remedied within such period and otherwise shall prosecute same with diligence to completion in the shortest period reasonably possible after the date of receipt of such Notice.

- (c) If any sum of money required to be paid to the City by any provision in this Agreement shall not be paid by the Lessee when such payment is due, the provisions of paragraph 14(i)(ii) and 14(i)(iii) of the Interface Agreement shall be applicable.
 - (d) If the Lessee does not comply with paragraph 5(b) hereof as required, the City may take either or both of the following steps in addition to or together with any other remedy available at law to the City:
 - (i) The City, (provided the matters in dispute shall not have been referred to arbitration) on not less than sixty (60) days' notice to the Lessee, may terminate this Easement Agreement unless within such sixty (60) day notice period the Lessee shall comply with paragraph 5(b) hereof; or,
 - (ii) Such breach or default may, at the option of the City, be deemed to constitute a default of the Lessee under the Ground Lease and after it has then given the Notice of default pursuant to the Ground Lease, the City shall have its rights under the Ground Lease.
6. (a) Notwithstanding that the Lessee shall have complied in all respects with its obligations under this Agreement, if the City wishes to establish an alternate truck route, then, on not less than one (1) year's prior written notice to the Lessee given by the City, this easement agreement shall terminate as of the date stated in the notice.
- (b) In the event that this easement agreement is terminated in accordance with the preceding provision 6(a), the City shall provide for an alternate truck route or routes and a new easement therefor. Such alternate truck route may be temporary during construction (whether before or subsequent to the termination as aforesaid) and will be specifically determined thereafter, provided that during construction of an alternative truck route, a temporary truck route will be available.
- (c) The Lessee acknowledges and agrees that the truck route (or portions of it) may be closed for such time as may be

reasonably necessary for repairs, maintenance and alterations or due to unforeseen and unusual circumstances. In particular and without limiting the generality of the foregoing, the City shall be entitled to close the truck route at any time or from time to time throughout the term hereof, upon at least seven (7) days' notice to the Lessee, for such temporary periods of time as may be reasonably necessary for the purpose of fulfilling its obligations and exercising its rights under this Agreement, and the Lessee shall not be entitled to claim from or be paid any amount by the City in respect of such closure or resulting inconvenience or expense.

- (d) Anything in this Agreement to the contrary notwithstanding, providing such cause is not due to the wilful act or omission of the City, the City shall not be deemed in default with respect to the performance or fulfilment of any of the terms, covenants and conditions of this Agreement if the same shall be due to any cause beyond the City's control or otherwise including, without limitation, strike, lockout, failure of powers, civic commotion, warlike operation, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls, inability to obtain any material or service, or non-delivery of equipment, or through Act of God.
- (e) If the truck route, including its doors, equipment and fixtures including the entrances thereto, the boilers, engines, pipes and other apparatus (or any of them) used for the purpose of heating or air conditioning or the ceiling, walls or floors of the truck route or any part thereof become damaged or destroyed through the negligence, carelessness or misuse of the Lessee, its servants, agents, employees, contractors, licensees or anyone for whom in law the Lessee is responsible, or through the Lessee or them in any way stopping up or injuring the heating apparatus, water pipes, drainage pipes or other equipment or part of the site, the expense of the necessary repairs, replacements or alterations

shall be borne by the Lessee who shall pay the same to the City forthwith upon demand.

7. The Lessee hereby agrees to indemnify and save harmless the City against and from all actions, causes of action, interest, claims, demands, costs, damages, expenses or loss which the City may bear, suffer, incur, become liable for or be put to by reason of any damage to property or injury or death to persons by reason of, arising out of or in consequence any breach, violation or non-performance by the Lessee or anyone for whom the Lessee is responsible in law of any provision of this Agreement, or by reason of or arising out of its use of the truck route or any part thereof or by reason of or arising out of any fault, neglect or default by the Lessee or of any of its agents or employees or any other person or persons for whom the Lessee is responsible in law in or on the truck route. The rights to indemnity contained in this paragraph shall survive any termination of this Agreement, in respect of any matter arising prior to such termination, anything in this Agreement to the contrary notwithstanding.
8. This Agreement may not be modified or amended, except by an instrument in writing of equal formality herewith.
9. No waiver by any of the parties hereto of the breach of any covenant or provision hereunder shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenants or provisions hereunder. No waiver shall be effective unless in writing.
10. This Agreement shall be registered on title to the land described in Schedules "A" and "B" by the Lessee forthwith after its execution by the parties hereto.
11. (a) This Agreement shall be binding upon and shall enure to the benefit of the Lessee, its successors and its assigns permitted by the Ground Lease and this Agreement shall

bind and run with the leasehold land described in Schedule "B".

- (b) In the event that the Ground Lease with the Lessee is terminated prior to the expiration of its term, this Easement Agreement shall also terminate.
- (c) The Lessee covenants and agrees that subject to the terms of its Ground Lease, it will not dispose, by way of sale, transfer and/or assignment, or in any other way whatsoever, of any of its interests in the leasehold land described in Schedule "B" and in this Agreement unless and until such disposition is in compliance with the following:
 - (i) Except in the case of the foregoing by way of Charge or Mortgage, the Lessee shall have first acquired from any such purchaser, transferee or assignee, on closing, their Undertaking to the City, satisfactory to the City acting reasonably to abide by and be bound by all of the terms, covenants and conditions of this Agreement and without delivering such undertaking to the City. The Undertaking shall be in the form attached hereto as Schedule "D". Such undertaking after execution by the parties thereto shall forthwith be registered on title by the party subsequent in interest;
 - (ii) the party subsequent in interest to the Lessee must receive not less than all of the Lessee's interest in this Easement Agreement.
- (d) In the event of the foregoing by way of Charge or Mortgage, the Lessee covenants and agrees that it will not mortgage any of its Leasehold Land described in Schedule "B" nor this Easement Agreement without first acquiring from any such Mortgagee its covenant to the City to comply with this Agreement in the same manner that the Mortgagee is required by sec.16.01 of the Ground Lease to agree to comply with the Ground Lease. Such covenant shall form part of the Mortgagee's Agreement with the City entered into pursuant to sec.16.01 of the Ground Lease.

12. (a) This Agreement is subject to and shall not take effect until the following approvals are received:
- (i) the approval of the Ontario Provincial Minister of Municipal Affairs and Housing; and,
 - (ii) the approval of Canada Mortgage and Housing Corporation.
- (b) The City will apply for the approvals set out in paragraph 12(a) and take all necessary steps for such applications. the Lessee agrees to co-operate in the obtaining of such approvals.
13. Time shall be of the essence of this Agreement.
14. (a) Any notice required or permitted to be given hereunder shall be sufficiently given if in writing and mailed by registered mail, postage prepaid, as follows:

If to the Lessee:

Second Phase Civic Square Limited
c/o Yale Properties Limited
2015 Peel Street
Montreal, Quebec
H3A 1T8

Attention: Mr. Emile Mashaal

With a copy to:

Messrs. Milligan, Gresko, Charuk & Rogers
Barristers & Solicitors
330-110 King Street West
Hamilton, Ontario
L8M 3M8

Attention: Mr. James G. Milligan

If to the City:

The Corporation of the City of Hamilton
City Hall
Attention: City Clerk
71 Main Street West
P.O. Box 2040
Hamilton, Ontario
L8N 3T4

- (b) Any notice mailed as aforesaid shall be deemed to have been given and received on the fifth (5th) business day following the date of such mailing. Any party hereto may at any time give notice to any one or more of the parties hereto by a notice in writing served personally upon an Officer of such party or parties or in the case of the

City, upon an official of the City, in which case, notice shall be deemed to be given and received on the day of such personal service.

- (c) Any party may at any time give notice to the other parties of any change of address of the party giving such notice and from and after the giving of such notice, the address therein specified shall be deemed to be the address of such party and any party may require that notice be given to other persons, corporations or entities who or which may or may not have an interest in this Agreement and upon the giving of notice of such requirement and the address for such required notice, then such person, corporation or entity shall be deemed to have been named above for the purpose of giving and receiving notice thereafter.
- (d) The captions used in this Agreement are for convenience only and shall not be construed in interpreting this Agreement. Wherever from the context it appears appropriate, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in the masculine or the neuter gender shall include the masculine and neuter.
- (e) The parties agree that all of the provisions of this Agreement are to be construed as covenants and agreements as though the words importing such covenants and agreements were used in each separate paragraph hereof. Should any provision or provisions of this Agreement be illegal or not enforceable, it or they shall be considered separate and severable from the Agreement and its remaining provisions shall remain in full force and be binding upon the parties hereto as though the said provision or provisions had never been included.

15. The parties agree that the arbitration provision contained in Section 17.01 of the Ground Lease to Second Phase shall apply to any dispute which arises in respect of the provisions hereof.

16. For greater certainty, the Lessee acknowledges and agrees that:

- (a) any alteration to its Improvements upon its demised premises for the purpose of a loading dock or truck access from which to enter or to leave its demised premises to or from the Second Phase truck route, is subject to the approvals of the Lessor under Section 6.04 of the Ground Lease for alterations to the external appearance of Second Phase's demised premises;
- (b) there shall be no alterations to the demised premises (if any) of Second Phase that abut the truck route for the purpose of a loading dock or truck access beside the truck route.

17. The Lessee agrees to install at its expense, an overhead garage door (upon the existing overhead door track located between the truck route and second phase truck route) to separate the truck route from the Second Phase truck route. Such door shall be installed at the same time as Second Phase constructs a pedestrian door or any other opening on Second Phase's demised premises which open upon the Second Phase truck route.

18. This Agreement may be executed in several counterparts each of which when executed by the parties shall be deemed to be an original and such counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF the parties have hereunto caused to be affixed their respective corporate seals attested by the signatures of their respective proper officers duly authorized in that behalf.

THE CORPORATION OF THE CITY OF HAMILTON

_____(c/s)
Mayor

City Clerk

SECOND PHASE CIVIC SQUARE LIMITED

Per: _____(c/s)
President

Per: _____
Secretary

LIST OF SCHEDULES

(attached to and forming part of an Agreement dated February 26, 1990 entered into between THE CORPORATION OF THE CITY OF HAMILTON and SECOND PHASE CIVIC SQUARE LIMITED.)

- | | | |
|--------------|---|--|
| Schedule "A" | - | Legal description of truck route |
| Schedule "B" | - | Legal description of the Lessee's leasehold premises |
| Schedule "C" | - | Legal discription of new truck route |
| Schedule "D" | - | Form of Undertaking Agreement |

9.

FOR ACTION

REPORT TO: SUSAN REEDER, SECRETARY
PLANNING AND DEVELOPMENT
COMMITTEE

DATE: February 23, 1990
COMM. FILE:
DEPT. FILE: ZA-89-116
St. Clair
Neighbourhood

FROM: J.D. THOMS, COMMISSIONER
PLANNING AND DEVELOPMENT DEPARTMENT

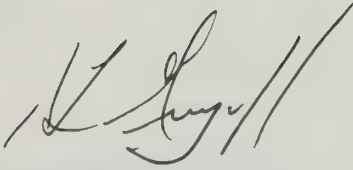
SUBJECT:

Request for a modification in zoning - No. 81 Myrtle Avenue.

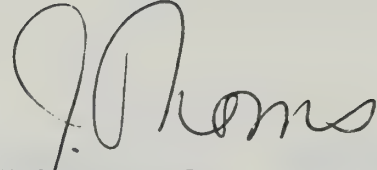
RECOMMENDATION:

That Zoning Application 89-116, Peter and Anneliese Schaller, owners, requesting a modification to the established "C" (Urban Protected Residential, etc.) District regulations to legalize the established two-family dwelling, for property located at No. 81 Myrtle Avenue, as shown on the attached map marked as APPENDIX "A", be **DENIED** for the following reasons:

- i) It represents an intrusion of a two-family dwelling into an area primarily occupied by single-family dwellings;
- ii) It is an over-intensification of land use, in that the subject property does not meet the minimum frontage requirements (8.2 m is available whereas the Zoning By-law requires 12.0 m) nor the minimum lot area provisions for conversion to a two-family dwelling (238.3 m² is provided on the subject property whereas the Zoning By-law requires 270 m²);
- iii) two off-street parking spaces are required whereas it appears that only one can be provided on-site; and,
- iv) approval of the application would set an undesirable precedent and would encourage other similar applications which, if approved, would undermine the intent of the By-law and change the character of the neighbourhood.



A.L. Georgieff, M.C.I.P.
Director of Local Planning



J.D. Thoms, M.C.I.P.
Commissioner
Planning and Development Department

FINANCIAL IMPLICATIONS

N/A

BACKGROUND

- Proposal

This application was submitted to legalize the existing two-family dwelling. The applicants have advised that the two units have a floor area of 700 square feet (first floor unit) and 750 square feet (second floor unit). In terms of parking, the applicants have advised that they can provide one parking space in the driveway and one parking space in the required front yard.

- Zoning Verification

On June 3, 1988, the solicitor for the applicants requested a zoning verification certificate for No. 81 Myrtle Avenue stating that the present and proposed use was a single-family dwelling (see APPENDIX "B" and APPENDIX "C"). On June 30, 1988 the Building Department returned the request, informing the solicitor for the applicants that the proposed use (a single-family dwelling) was permitted.

- Order to Comply

On September 27, 1989, the Building Department issued an Order to Comply for the subject property (see APPENDIX "D"). The order requires the owner to reduce the occupancy from the current two-family dwelling to a single-family dwelling or to legalize the two-family use.

On November 8, 1989, the owners submitted this zoning application to legalize the existing two-family dwelling.

- Zoning Application 88-70 (80 Myrtle Avenue)

At its meeting held on November 30, 1988, the Planning and Development Committee denied zoning application 88-70, which was a request to legalize the established two-family dwelling at No. 80 Myrtle Avenue.

City Council, at its meeting of December 13, 1988, adopted the recommendation of the Planning and Development Committee.

APPLICANTS

Peter and Anneliese Schaller, owners.

LOT SIZE AND AREA

- 8.2 m (27 feet) of lot frontage on Myrtle Avenue;
- 28.9 m (95 feet) of lot depth; and,
- 238.3 m² (2,565 square feet) of lot area.

LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	two-family dwelling	"C" (Urban Protected Residential, etc.) District
<u>Surrounding Lands</u>		
to the north	one and two-family dwellings	"C" (Urban Protected Residential, etc.) District
to the south	two-family dwellings	"C" (Urban Protected Residential, etc.) District
to the west	one and two-family dwellings	"C" (Urban Protected Residential, etc.) District
to the east	two-family dwellings	"C" (Urban Protected Residential, etc.) District

OFFICIAL PLAN

Designated "RESIDENTIAL" on Schedule "A" - Land Use Concept proposal does not conflict with the intent of the Official Plan.

NEIGHBOURHOOD PLAN

Designated "SINGLE AND DOUBLE RESIDENTIAL" on the approved St. Clair Neighbourhood Plan, the proposal complies.

COMMENTS RECEIVED

- The following agencies have no comment or objection:
 - Local Architectural Conservation Advisory Committee staff; and,
 - Hamilton Region Conservation Authority
- The Traffic Department has advised that the application is "satisfactory".
- The Building Department has advised that:
 - "1. To convert the existing single-family dwelling to a two-family dwelling the following is required:
 1. lot area of 270.0 m²,
 2. floor area for each dwelling unit of 65.0 m²,
 3. two (2.7 m x 6.0 m) parking spaces with sufficient manoeuvring space located on the lot and not in the required front yard,
 4. an access driveway having a width of 2.8 m for the parking spaces.
 2. It appears that none of the requirements can be met.
 3. Complete floor plans of both units and the location of the parking spaces are required to determine variances."
- To date, the Hamilton-Wentworth Engineering Department has not submitted any comments.

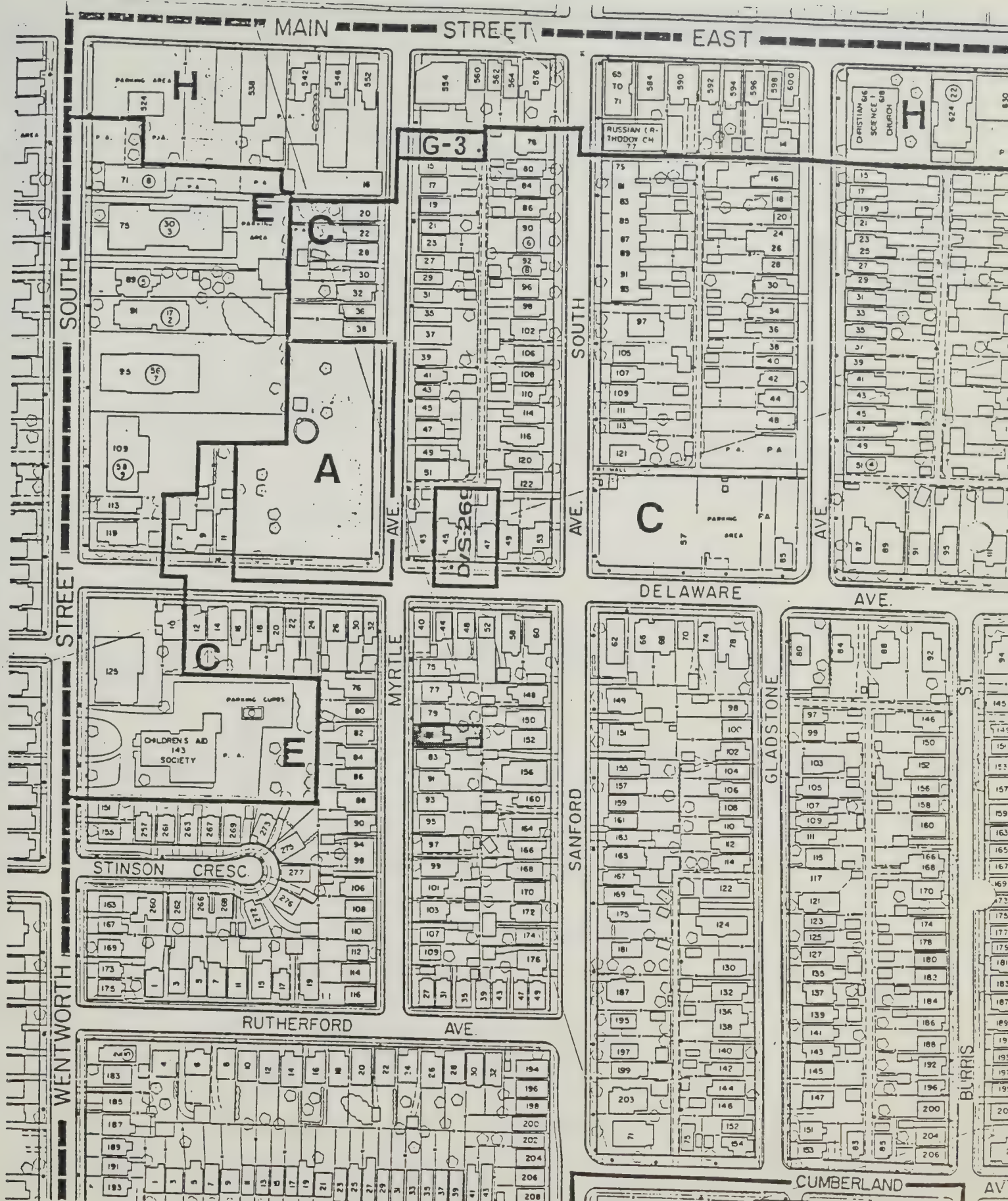
COMMENTS

1. The proposal does not conflict with the intent of the Official Plan.
2. The proposal complies with the intent of the approved St. Clair Neighbourhood Plan.
3. The proposal cannot be supported for the following reasons:
 - i) it represents an intrusion of a two-family dwelling into an area occupied primarily by single-family dwellings. According to the Building Department's records, most of the multiple family dwellings in this section of Myrtle Avenue (between Delaware Avenue and Rutherford Avenue) are established as legal non-conforming uses;
 - ii) it is an over-intensification of use in that the property does not meet the minimum required lot area or the minimum frontage requirements of Zoning By-law No. 6593. The "C" District requires a minimum frontage of 12 m (39.37 feet) whereas the subject property has 8.2 m (27 feet) of frontage. The minimum lot area requirement for conversion to a two-family dwelling is 270 m² (2,906.34 square feet); the subject lands are 238.3 m² (2,565 square feet) in area. The subject property is deficient in these requirements for conversion;
 - iii) adequate off-street parking cannot be provided. The applicants have advised that one parking space can be provided at the rear of the mutual driveway and one parking space in a paved section in the required front yard. The Building Department has advised that the parking space in the front yard is not permitted. Therefore, the proposal appears to be unable to meet the required parking provisions of the Zoning By-law;
 - iv) approval of the application would set an undesirable precedent and would encourage other similar applications which, if approved, would undermine the intent of the By-law and change the character of the neighbourhood; and
 - v) a similar application was submitted for No. 80 Myrtle Avenue in 1988 and was denied by the Planning and Development Committee and City Council.

CONCLUSION

On the basis of the foregoing, the application cannot be supported.

MLT/ma
WPZA89116



LEGEND



SITE OF THE APPLICATION



ZA 89-116

MILLAR, ALEXANDER, ISAACS & MILLAR

BARRISTERS & SOLICITORS

JOHN S. MILLAR, O.C.
PETER R. W. ISAACS, B.A., LL.B.
JOHN PAUL MILLAR, B.A., LL.B.

TELEPHONE (416) 528-1186

SUITE 201 STELCO TOWER
100 KING STREET WEST
HAMILTON, ONTARIO
L8P 1A2

June 3, 1988

The Corporation of the
City of Hamilton
71 Main Street West
HAMILTON, Ontario
L8N 3T4

		30.00
A	690	30.00
A	690	30.00

ATTENTION: BUILDING DEPARTMENT

Dear Sirs:

Re: Schaller p/f McCallum
81 Myrtle Avenue, Hamilton

We are the solicitors for Peter & Anneliese Schaller who have entered into a contract to purchase the above-mentioned property from Scott and Kim McCallum.

We would ask that you check your records to see if there are any work orders outstanding.

We enclose our general cheque for \$30.00 to cover your fees in this matter.

Yours truly,
MILLAR, ALEXANDER, ISAACS & MILLAR
Per:

John Paul Miller
per: LHO
JOHN PAUL MILLAR

OK
JP
June 29/88
JPM:ld
encl.

APPENDIX B

ZV

THE CORPORATION OF THE CITY OF HAMILTON

Schaller p/e
McCallum

DEPARTMENT OF BUILDINGS

CITY HALL

HAMILTON ONTARIO

528-2120

2000

JUL 05 1988

ZONING VERIFICATION CERTIFICATE 691

2000

FOR

81 Myrtle Avenue, Hamilton Part 35, Plan 408 691 east 2000 CND

MUNICIPAL NO.

STREET

LOT NO.

SIDE OF STREET

BETWEEN

STREET

AND

STREET

OWNER

Scott & Kim McCallum

ADDRESS

same as above

PROPOSED USE

single family residential

(BE SPECIFIC)

NUMBER OF DWELLING UNITS

one

PRESENT USE

single family residential

(BE SPECIFIC)

NUMBER OF DWELLING UNITS

one

EXISTING BUILDING ☐

SIGNATURE

John Paul Millar
per *td*PROPOSED BUILDING ☐

INFORMATION REQUESTED BY

NAME

John Paul Millar
Barrister & Solicitor
201-100 King St. W.
HAMILTON, Ontario
L8P 1A2VACANT LAND ☐

ADDRESS

SURVEYS (2) YES ☒ATTACHED? NO ☐

DATE

June 3rd, 1988

NOTE: FOR BUILDING LOCATION EXAMINATION INCLUDE TWO (2) ORIGINAL SURVEY PLANS.

BELOW THIS LINE FOR BUILDING DEPARTMENT USE ONLY

FROM THE RECORDS ON FILE IN THE DEPARTMENT OF BUILDINGS ON THIS DATE, THIS PROPERTY IS LOCATED IN A C DISTRICT.

SEE SECTION 9 OF ZONING BYLAW 6593 AS AMENDED BY ~~XXXXXX~~

AND COMMITTEE ADJUSTMENT No. -

DISTRICT MAP No. E23

THE PROPOSED USE IS PERMITTED ☒IS NOT PERMITTED ☐IS A LEGALLY ESTABLISHED NON CONFORMING USE ☐

THIS PROPERTY IS SUBJECT TO SITE PLAN CONTROL BYLAW NO. 79-275.

YES ☐ NO ☒

COMMENTS

The location of the house and garage are legal non-conforming as shown on survey plan dated July 31, 1984.

The land must have been held in separate registered conveyance from prior to July 25, 1950. (Lot of Record)

IMPORTANT: - THIS IS A ZONING VERIFICATION ONLY.

THIS CERTIFICATE DOES NOT INDICATE THAT AN EXISTING BUILDING OR ITS USE CONFORMS WITH THE REQUIREMENTS OF APPLICABLE BYLAWS, AND REGULATIONS, NOR THAT A LICENCE WILL BE ISSUED IF REQUIRED, NOR THAT THE ZONING WILL NOT BE CHANGED AFTER THE DATE OF ISSUANCE. COPIES OF THE CITY BYLAWS MAY BE OBTAINED FROM THE CITY CLERK.

THIS CERTIFICATE IS ISSUED WITHOUT LIABILITY ON THE PART OF THE CITY OR ITS OFFICIALS.

ZONING VERIFICATION CERTIFICATE ISSUED BY

S.R./Paul Kuppe/gs

BUILDING COMMISSIONER

FEES 20.00

DATE June 30/88

ZV No.

43121

FILE COPY

APPENDIX C



THE CORPORATION OF THE CITY OF HAMILTON

DEPARTMENT OF BUILDINGS

FILE NO: ZA-89-111

ORDER TO COMPLY

ISSUED TO	LOCATION
Peter Schaller	81 MYRTLE AVENUE (RES)
Anneliese Schaller	HAMILTON, Ontario.
R.R. #1	
ST. ANN'S, Ontario LOR 1YC	

TAKE NOTICE THAT THE use
AT THE ABOVE LOCATION IS IN CONTRAVENTION OF THE ACT(S)/REGULATION(S)/BY-LAW(S) AS OUTLINED BELOW:

[illegible]

"Pursuant" to the Residential Rent Regulation Act 1986, a copy of this Order may be sent to the Residential Rent Regulation Board in accordance with Section 15(1)(e).

AND TAKE NOTICE FURTHER THAT YOU AS THE OWNER/CONSTRUCTOR/OR PERSON APPARENTLY IN POSSESSION ARE HEREBY ORDERED TO COMPLY WITHIN thirty (30) days **ADDENDUM**

APPENDIX D

AND TAKE NOTICE FURTHER THAT IN DEFAULT OF COMPLIANCE WITH THE FOREGOING, YOU WILL BE LIABLE UPON CONVICTION, TO THE PENALTIES PROVIDED BY THE SAID ACT/REGULATION/BY-LAW

REGISTERED MAIL	Sept. 27/89	D.M. Gibson 526-3984	Sept. 27/89
RECEIVED BY	DATE	INSPECTOR	DATE

FOR ACTION

10.

TO: SUSAN K. REEDER, SECRETARY
PLANNING AND DEVELOPMENT
COMMITTEE

DATE: February 27, 1990
COMM FILE:
DEPT FILES: SA-88-14
ZA-89-80
25T-88021

FROM: J. D. THOMS, COMMISSIONER
PLANNING AND DEVELOPMENT DEPARTMENT

SUBJECT:

Proposed Draft Plan of Subdivision "Red Hill Vista"

Proposed Rezoning Application

RECOMMENDATION:

1. **Subdivision Application:**

- a) That approval be given to Application SA-89-14, Valery Construction Ltd., owner, to establish a draft plan of subdivision, located south of Mud Street and West of Upper Mount Albion Road, subject to the following conditions:
1. That approval apply to the area of the plan within the City of Hamilton, as prepared by Ashenhurst Nouwens Limited, dated January 24, 1989, revised to show a cul-de-sac bulb at the location of the future closing of Mud Street and probably realignment of Lots 1 to 4 inclusive.
 2. That the streets within the City of Hamilton be dedicated to the City as public highways on the final plan.
 3. That the streets be named to the satisfaction of the City of Hamilton.
 4. That the final plan conform to the zoning by-law approved under The Planning Act.
 5. That such easements as may be required for utility or drainage purposes be granted to the appropriate authority.
 6. That the owner provide the City of Hamilton with a certified list showing the net area and width of each lot and block in the final plan.
 7. That the owner make a cash payment in lieu of the conveyance of 5% of the land

included in the final plan to the City of Hamilton for park purposes.

8. That Block "81" be set aside for future development.
 9. That the Subdivision Agreement make specific provision that building permits will not be available for lots fronting onto or having direct access to Mud Street, until such time as Mud Street is realigned to the south.
 10. That the owner comply with the Development Standards to Control the Effects of Freeway Noise as adopted by Council on October 9, 1973, and subsequent amendments.
 11. That the owner shall erect a sign in accordance with Section XI of the subsequent Subdivision Agreement prior to the issuance of a final release by the City of Hamilton.
 12. That the owner agree in writing to satisfy all the requirements, financial and otherwise, of the City of Hamilton.
- b) That the Subdivision Agreement be entered into by the Corporation of the City of Hamilton and the owner to provide for compliance with the conditions of approval established by the Hamilton-Wentworth Region with respect to this application (SA-88-14), Valery construction Ltd., owner, proposed draft plan of subdivision, and that the City execute the agreement when the said conditions have been met and the City's share of the cost of installing municipal services has been approved by City Council.

2. Rezoning Application

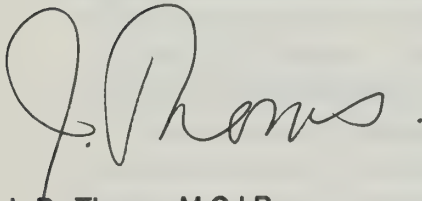
That approval be given to amended Zoning Application, C. Valery Construction, owner, requesting a change in zoning from "AA" (Agricultural) District to "R-4" (Small Lot Single-Family Detached) District, to permit small lot single-family dwellings, for property located on the south side of Mud Street and west of the City Limits, as shown on the attached map marked as APPENDIX "A", on the following basis:

- i) That the subject lands be rezoned from "AA" (Agricultural) District to "R-4" (Small Lot Single-Family Detached) District;
- ii) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-79B for presentation to City Council; and,
- iii) That the requested change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

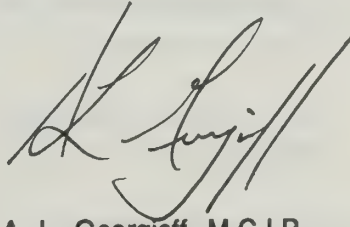
EXPLANATORY NOTE

The purpose of the By-law is to provide a change in zoning from "AA" (Agricultural) District to "R-4" (Small Lot Single-Family Detached) District for property located on the south side of Mud Street and west of the City Limits, as shown on the attached map.

The effect of the By-law is to permit small lot single-family development in conjunction with the adjacent lands to the south in the City of Stoney Creek.



J. D. Thoms, M.C.I.P.
Commissioner
Planning and Development



A. L. Georgieff, M.C.I.P.
Director - Local Planning

FINANCIAL IMPLICATIONS

N/A

BACKGROUND

Owner:

Valery Construction Ltd., Hamilton, Ontario

Agent:

Ashenhurst Nouwens Ltd., Hamilton, Ontario

Surveyor:

Ashenhurst Nouwens Ltd., Hamilton, Ontario

Location:

The lands, comprising 5.02 ha., are located south of Mud Street and west of Upper Mount Albion Road in the Albion Falls Neighbourhood, City of Hamilton.

LAND USE AND ZONING

	<u>Existing Lands</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	Vacant	"AA" (Agricultural) District
<u>Surrounding Lands</u>		
to the north	Open space and single-family residences	"A" (Conservation, Open Space, Park and Recreation District
to the south	Vacant and single-family residences	City of Stoney Creek "A" (Agricultural) District
to the west	Single-family residences	"AA" (Agricultural) District
to the east	vacant	"AA" (Agricultural) District

Subdivision Proposal

The owner proposes to subdivide the lands into 80 lots for single-family dwellings and one block for neighbourhood commercial purposes. The lands fronting on Mud Street including some 24 lots and Block "81", are located within the City of Hamilton. The remainder is located within the City of Stoney Creek.

Rezoning Proposal

The owner has requested that the property be rezoned from AA" (Agricultural) District to "R-4" (Small Lot Single-Family Detached) District.

EXISTING DEVELOPMENT CONTROLS

Hamilton-Wentworth Official Plan - the lands are identified as "Residential and Related Uses" within the "Urban Policy Area". the proposal complies.

City of Hamilton Official Plan - the lands are designated "Residential". The proposal complies.

Neighbourhood Plan - the lands are designated for "Single and Double" housing. The proposal complies, subject to minor changes to the road pattern.

Zoning - the lands are zoned "AA" (Agricultural) District. An amendment to the Zoning By-law is required to permit the proposed development.

Niagara Escarpment - the lands are not within the "Development Control Area", therefore, the regulations do not apply.

COMMENTS FROM CIRCULATION

1. Subdivision Application

The following agencies have advised that they have no comment or objection toward the proposal:

Ministry of Municipal Affairs;
Ministry of Transportation;
Ministry of the Environment (subject to standard noise conditions);
Ministry of Natural Resources;
Ministry of Culture & Communications (subject to standard conditions);
Hamilton Region Conservation Authority (subject to grading and drainage plan);
Niagara Escarpment Commission;
Union Gas, Bell Telephone, Ontario Hydro;
City of Hamilton Board of Education;
City of Hamilton Traffic Department;
City of Hamilton Building Department (subject to rezoning);
Transportation Corridor (Freeway Project) (subject to 15m. berm easement).

The Hamilton-Wentworth Department of Engineering has submitted the following comments and recommendations:

"Information:

1. The development can be serviced for sanitary and storm sewers from existing sewers on Mud Street.
2. Lots 45 to 80 inclusive can be serviced for water from an existing watermain on Upper Mount Albion Road.
3. At the present time there are no existing watermains on Mud Street, abutting Lots 1 to 44 inclusive to service this development, but the subdivision agreement will provide it.
4. There is no Regional share for watermains or sewers for this proposal.
5. For the information of the applicant, it is proposed that street "B" not be opened to vehicular traffic at Mud Street until after Mud Street is relocated.

Recommendations

6. A 12m wide sewer easement be conveyed to the Region in the vicinity of Lot 14.
7. Access to Lots 37 to 44 inclusive not permitted until after realignment of Mud Street southerly; therefore these lots be established as one block or provision be made in the agreements that the lots can not be built on until the realignment of Mud Street.
8. The developer shall execute subdivision agreements with the Region and the City of Hamilton prior to the development of these lands."

The submitted plan, as prepared by Ashenhurst Nouwens Limited and dated January 24, 1989, is satisfactory to the Department of Engineering, subject to the above-noted comments and recommendations.

2. Rezoning Application

- o The following agencies have no comment or objection:

- Local Architectural Conservation Advisory Committee staff;
- Hamilton-Wentworth Regional Police;
- Hamilton Region Conservation Authority; and,
- City of Hamilton Traffic Department.

- o The Building Department has advised that:

"All conditions of the zoning by-law must be met on the land only within the City of Hamilton. Setbacks, area requirements, etc., cannot be calculated on any of the land in Stoney Creek."

- o The City of Stoney Creek has advised that:

"This proposed subdivision plan represents a logical extension of the existing urban development in this part of the Heritage Green Area. It will also provide additional housing units in an area with considerable demand for same. Given the smaller lot sizes proposed, staff trust that future homes will be less costly than those on conventional 15.0 metre wide lots, due to the reduced land costs per lot. In turn, this should result in an opportunity to provide more affordable homes.

The proposed development of a low-density residential subdivision in this location is consistent with the City's long-term planning strategy for this area. Similarly, low-density residential use would be consistent with the City of Hamilton's plans for the Albion Falls Neighbourhood. The proposed neighbourhood commercial block (Block "1") is not, however, supported by City staff, due to land use compatibility concerns. It is our understanding that similar concerns have been raised by City of Hamilton Planning staff. As a result, that portion of the draft plan in the City of Hamilton must be revised to eliminate the proposed commercial block and replace same with acceptable residential lots."

- o The Hamilton-Wentworth Engineering Department has advised that:

"...please note that no direct access to Mud Street will be permitted from single-family lots and Street "B" until such time as Mud Street is realigned in conjunction with the Freeway and this section of Mud Street becomes a local road. Access to Block "1" (Neighbourhood Commercial) will be determined at such time as site plans are submitted for our review but access to this block will likely be on Upper Mount Albion Road only.

This application must be forwarded to the Mountain East-West and North-South Freeway Project Office for their comments on land and property requirements for the projected berm easements, setbacks, etc.

According to the Albion Falls Neighbourhood Plan, Block "1" (Neighbourhood Commercial) is designated for single-family housing and the intent of the plan should be retained or the neighbourhood plan should be revised.

This application should also be forwarded to the City of Stoney Creek for their comments as these lands of the subdivision are partially located in their jurisdiction.

We also recommend that as a condition of zoning and subdivision plan that a cul-de-sac be provided for on the south side of Mud Street, west of Street "A" as shown on the approved Albion Falls Neighbourhood Plan and stated in our previous comments in the original draft plan submission. This cul-de-sac will require re-lotting at the west side since the majority of the lot will be required for the cul-de-sac."

- o The Freeway Project Office has advised that:

"While staff have no objection to the rezoning, we wish to advise that both Mud Street and Upper Mount Albion Road will be closed."

COMMENTS

1. This report deals with and includes recommendations in regard to a proposed draft plan of subdivision and a proposed amendment to the Zoning By-law to implement the plan.
2. The lands do not include an area designated for a park in the approved Neighbourhood Plan, therefore, it is recommended that cash-in-lieu of land be taken as the parkland requirement for this plan of subdivision.
3. The conformity of the proposal with Official Plans and the need for a zoning by-law amendment is noted.

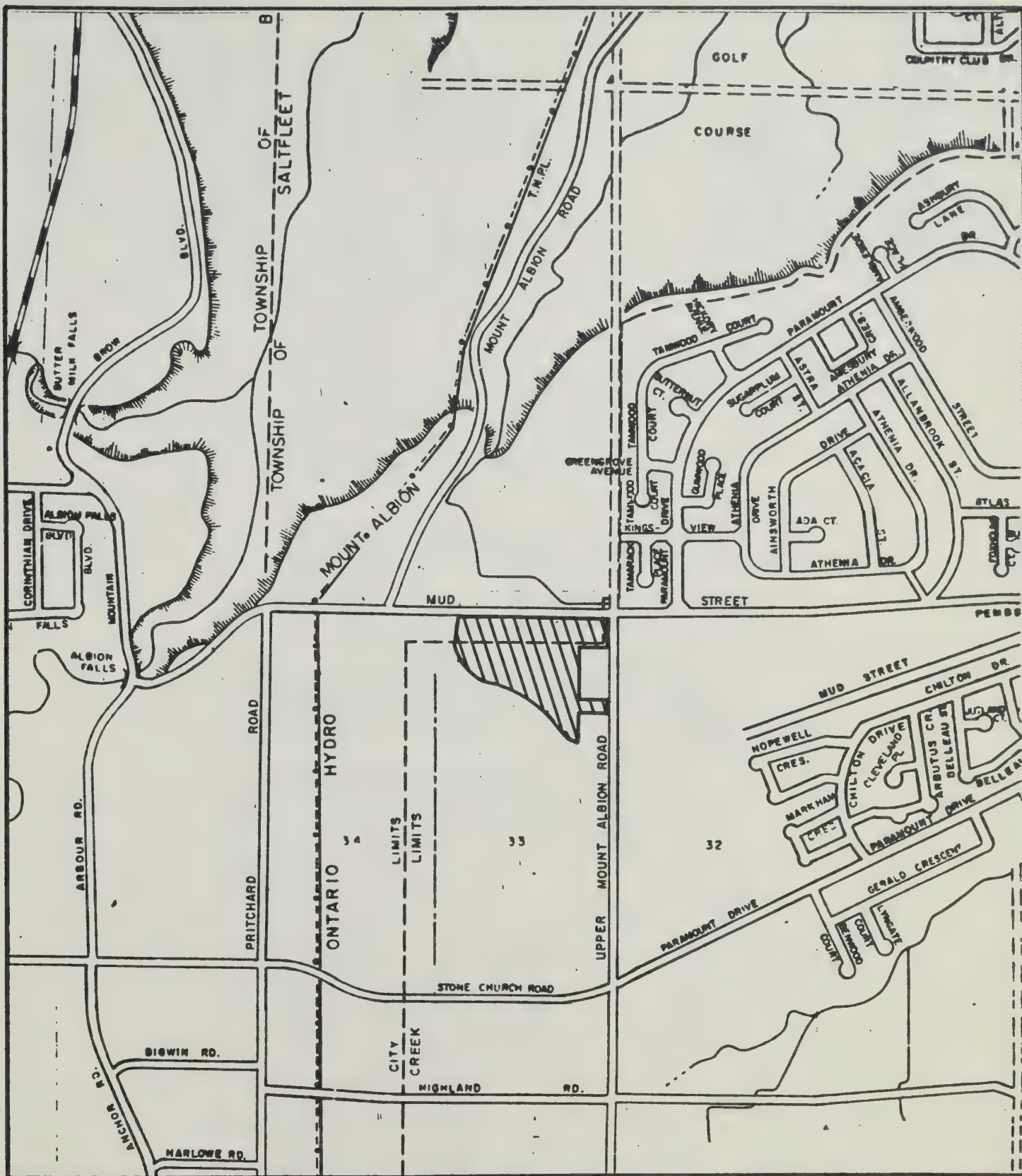
4. The lands which are the subject of this application are to be developed with lands to the south in the City of Stoney Creek as a subdivision. The proposed subdivision has 80 lots.

At its meeting held on July 25, 1989, the Council of the City of Stoney Creek adopted the following resolution pertinent to the portion of the subdivision in the City of Stoney Creek:

"That Subdivision Report S89-27 on the application by Valery Construction Limited for the approval of a draft plan of subdivision known as "Redhill Vista", Regional Planning and Development Department File No. 25T-88021, be received for information and filed, the recommendations contained therein be adopted, the draft plan be approved, and the Regional Municipality of Hamilton-Wentworth be so advised."

5. The proposal complies with the intent of the approved Albion Falls Neighbourhood Plan, with the exception of the proposed Neighbourhood Commercial Block.
6. The amended proposal to rezone the lands from "AA" (Agricultural) District to "R-4" (Small Lot Single-Family Detached) District has merit and can be supported for the following reasons:
 - i) it implements the intent of the Official Plan and the approved Albion Falls Neighbourhood Plan;
 - ii) the requested zoning would be appropriate for the subject lands; and,
 - iii) the change in zoning is compatible with present and future planned development in the area.
7. The requirements of the various agencies can be implemented through the conditions of draft approval to be established by the Commissioner of Planning and Development and the City Subdivision Agreement.

CMD/jd
FARH21



Location Plan For

REDHILL VISTA

Regional Municipality of Hamilton-Wentworth
Planning and Development Department

Legend



PROPOSED SUBDIVISION

North

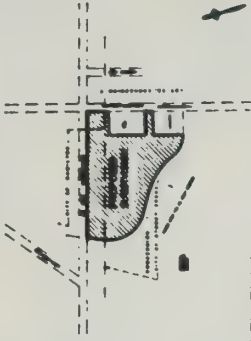


Scale
N. T. S.

Date
JULY 5, 1988

Reference File No.
25T-88021

Drawing No.



KEY PLAN
SCALE: 1:1000

METRIC NOTE

MEASUREMENTS ON THIS PLAN ARE IN METERS AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

OWNER'S CERTIFICATE

I, **JOHN P. NOUWENS**, being a registered surveyor, do hereby certify that the boundaries of the land shown on this plan have been surveyed and measured in accordance with the Surveyors Act and the Planning Act, and that the same are correct and true.

DRAWN

John P. Nouwens
REGISTERED SURVEYOR
ONTOARIO LAND SURVEYOR

SURVEYOR'S CERTIFICATE

I, **JOHN P. NOUWENS**, being a registered surveyor, do hereby certify that the boundaries of the land shown on this plan have been surveyed and measured in accordance with the Surveyors Act and the Planning Act, and that the same are correct and true.

DRAWN

John P. Nouwens
REGISTERED SURVEYOR
ONTOARIO LAND SURVEYOR

SCHEDULE : RE : SECTION 50(2)

- A. SHOWN
- B. SHOWN
- C. SHOWN
- D. SHOWN
- E. SHOWN
- F. SHOWN
- G. SHOWN
- H. SHOWN
- I. SHOWN
- J. SHOWN
- K. SHOWN
- L. SHOWN
- M. SHOWN
- N. SHOWN
- O. SHOWN
- P. SHOWN
- Q. SHOWN
- R. SHOWN
- S. SHOWN
- T. SHOWN
- U. SHOWN
- V. SHOWN
- W. SHOWN
- X. SHOWN
- Y. SHOWN
- Z. SHOWN

TOTAL AREA : 8022 HECTARES

DRAFT PLAN OF REDHILL VISTA

BEING A PROPOSED SUBDIVISION OF PART OF LOT 33, CONCESSION 7

FORMERLY IN THE TOWNSHIP OF SALISBURY

CITY OF STONEY CREEK

AND PARTLY IN THE

CITY OF HAMILTON

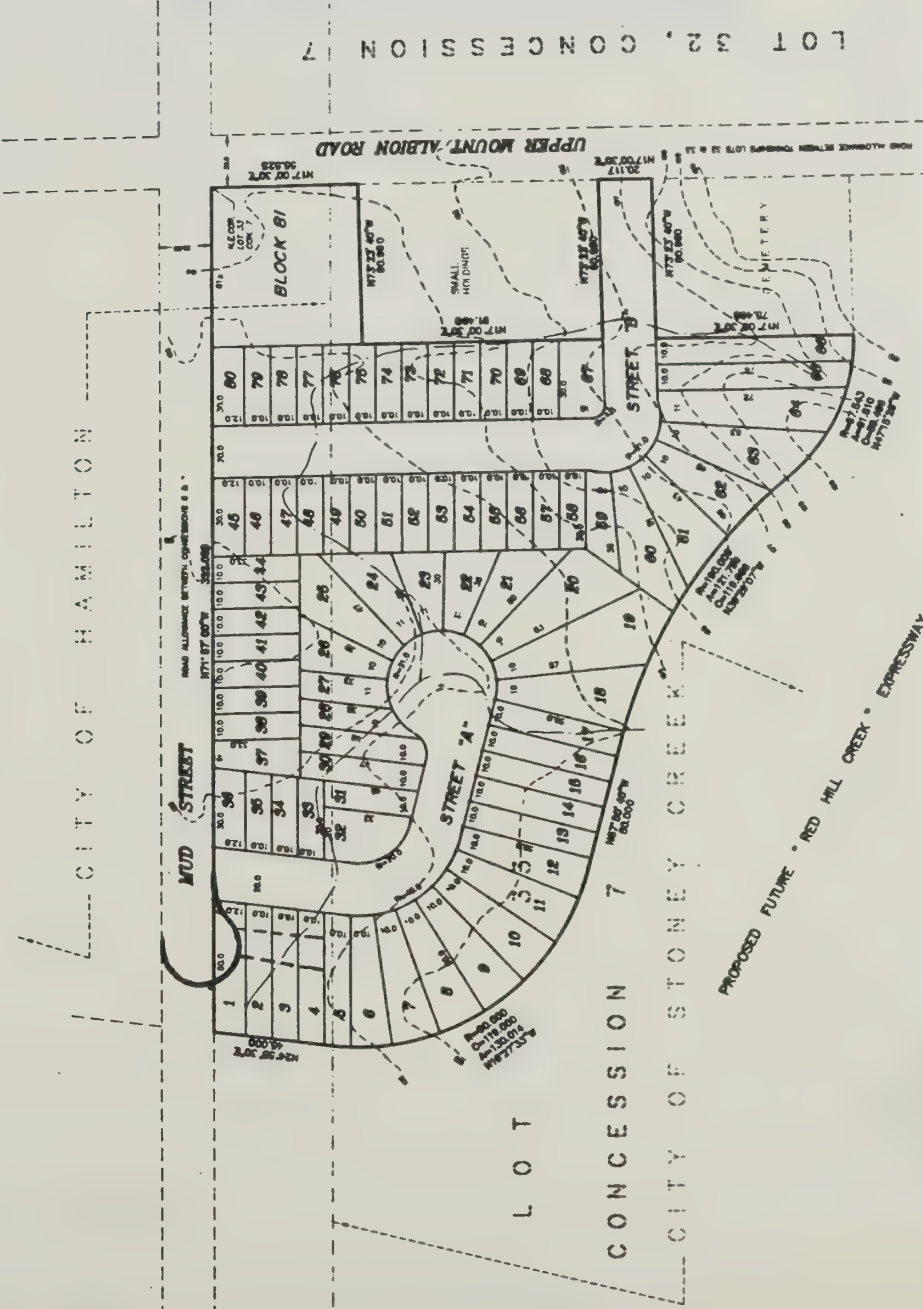
REGIONAL MUNICIPALITY OF HAMILTON-NORTHSHORE

SCALE : 1:1000

JOHN P. NOUWENS, O.L.S. - 1989.

ASHENHURST NOUWENS LIMITED
Professional Engineers & Ontario Land Surveyors
1000 SHEPPARD AVENUE EAST
SUITE 1000
MARKHAM, ONTARIO L3R 9V3
(416) 479-1100
FACSIMILE 479-1101

DATE	2/1/89	BY	J.P.N.
APPROVED		FILE NO.	257-8002



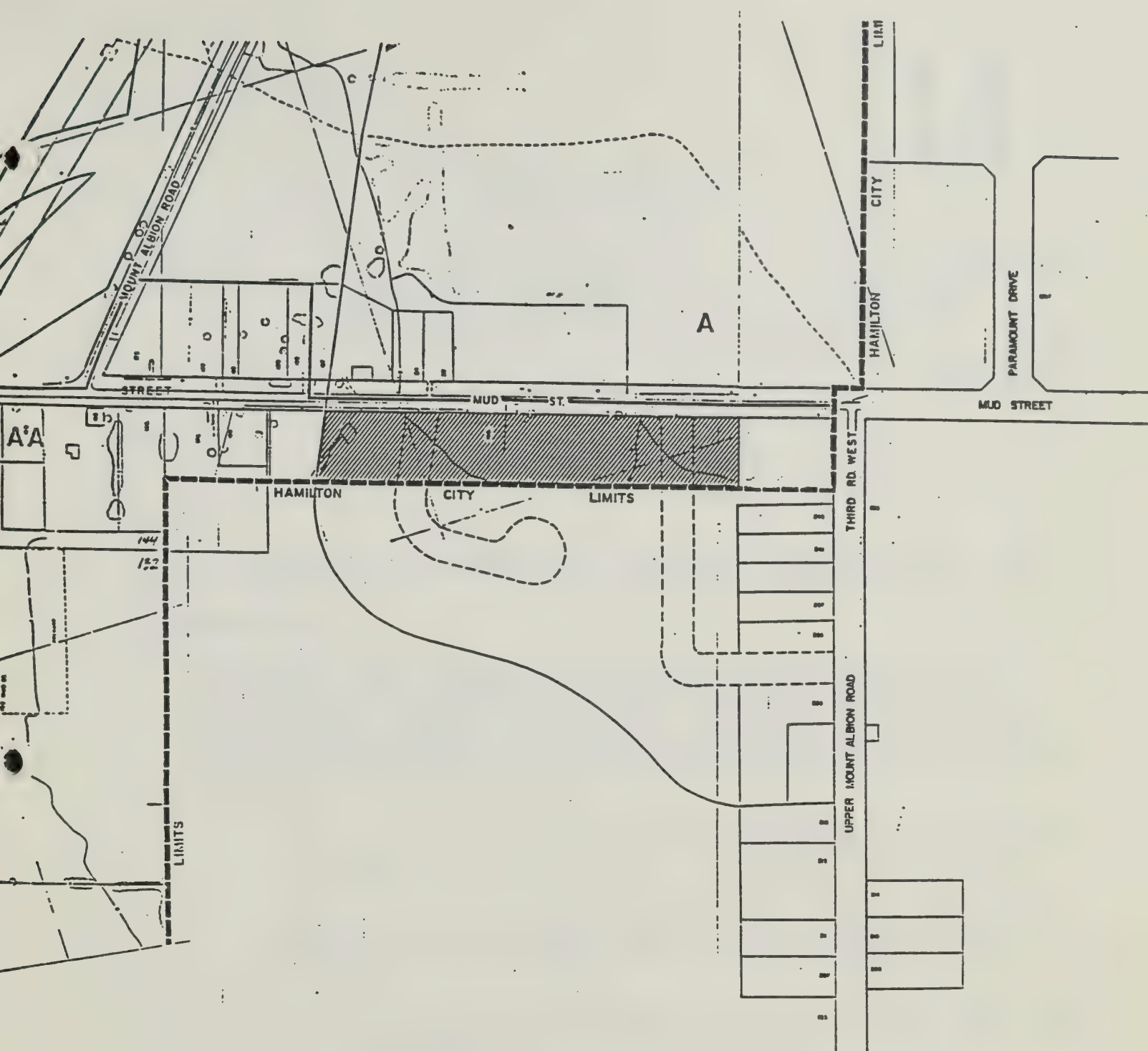
LOT 32, CONCESSION 7

CITY OF HAMILTON

CONCESSION 7

CITY OF STONEY CREEK

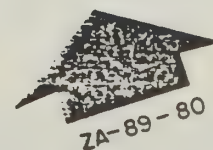
PROPOSED FUTURE - RED HILL CREEK - EXPRESSWAY



Legend



SITE OF THE APPLICATION.



FOR ACTION

REPORT TO: SUSAN REEDER, SECRETARY
PLANNING AND DEVELOPMENT
COMMITTEE

DATE: February 27, 1990
COMM. FILE:
DEPT. FILE: CI-89-I
Beasley
Neighbourhood

FROM: J.D. THOMS, COMMISSIONER
PLANNING AND DEVELOPMENT DEPARTMENT

SUBJECT:

Request for a change in zoning - properties located at Nos. 207, 209 and 211 Hughson Street North.

RECOMMENDATION:

- A) That approval be given to City Initiative 89-I, The Parking Authority for the City of Hamilton, owner, requesting a change in zoning from "D" (Urban Protected Residential, One and Two-Family Dwellings, Townhouses, etc.) District to "G-3" (Public Parking Lots) District, for properties located at Nos. 207, 209 and 211 Hughson Street North, as shown on the attached map marked as APPENDIX "A", on the following basis:
- i) That the subject lands be rezoned from "D" (Urban Protected Residential, One and Two-Family Dwellings, Townhouses, etc.) District to "G-3" (Public Parking Lots) District;
 - ii) That the "G-3" (Public Parking Lots) District regulations as contained in Section 13C of Zoning By-law No. 6593 be modified to include the following variances as special requirements:
 - a) That notwithstanding Section 13C(3) of Zoning By-law No. 6593 only the following provisions shall apply:
 1. That a minimum 1.5 m wide landscaped strip be provided and maintained along the southerly side lot line;
 2. That a visual barrier not less than 1.2 m in height and not greater than 2.0 m in height shall be provided and maintained along the southerly side lot line;
 3. That a minimum 1.5 m wide landscaped strip shall be provided and maintained along the lot line adjoining Hughson Street North, except for any area used for access driveway(s).

- iii) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S- , and that the subject lands on Zoning District Map E-3 be notated S ;
 - iv) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-3 for presentation to City Council;
 - v) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area;
 - vi) That the Beasley Neighbourhood Plan be amended by redesignating the subject lands to "COMMERCIAL".
- B) That the amending By-law not be forwarded for passage by City Council until such time as a site plan has been approved.

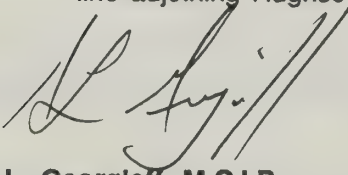
EXPLANATORY NOTE

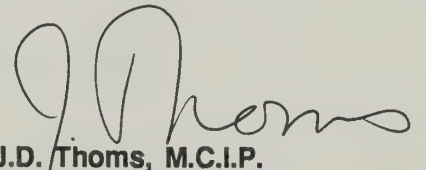
The purpose of the By-law is to provide for a change in zoning from "D" (Urban Protected Residential, One and Two-Family Dwellings, Townhouses, etc.) District to "G-3" (Public Parking Lots) District, for properties located at Nos. 207, 209 and 211 Hughson Street North, as shown on the attached map marked as APPENDIX "A".

The effect of the By-law is to permit a municipal parking lot.

In addition, the By-law provides for the following variances as special requirements:

- to require a minimum 1.5 m wide landscaped strip to be provided and maintained along the southerly side lot line;
- to require a visual barrier not less than 1.2 m in height nor more than 2.0 m in height to be provided and maintained along the southerly side lot line; and,
- to require a minimum 1.5 m wide landscaped strip to be provided and maintained along the lot line adjoining Hughson Street North, except for any area used for access driveway(s).


A.L. Georgieff, M.C.I.P.
Director of Local Planning


J.D. Thoms, M.C.I.P.
Commissioner
Planning and Development Department

FINANCIAL IMPLICATIONS

N/A

BACKGROUND

The Parking Authority for the City of Hamilton recently acquired the subject lands for the purposes of establishing a municipal parking lot containing approximately 23 to 25 parking spaces.

APPLICANT

Parking Authority of the City of Hamilton, owner.

LOT SIZE AND AREA

- 19.41 m (63.67 ft.) of lot frontage on Hughson Street North;
- 33.53 m (110.0 ft.) of lot depth; and,
- 650.82 m² (7,003.7 sq.ft.) of lot area.

LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	vacant	"D" (Urban Protected Residential - One and Two-Family Dwellings, Townhouses, etc.) District
<u>Surrounding Lands</u>		
to the north	parking lot and church	"D" (Urban Protected Residential - One and Two-Family Dwellings, Townhouses, etc.) District
to the south	single-family and two-family dwellings	"D" (Urban Protected Residential - One and Two-Family Dwellings, Townhouses, etc.) District
to the east	one, two and three-family dwellings	"D" (Urban Protected Residential - One and Two-Family Dwellings, Townhouses, etc.) District

to the west

commercial

"H" (Community Shopping and Commercial, etc.) District

OFFICIAL PLAN

Designated "CENTRAL POLICY AREA" on Schedule "A" - Land Use Concept Plan of the Official Plan. The following policies, among others, would apply:

"2.8.1 To promote the CENTRAL POLICY AREA as a multi-use node for both the City and the Region, a wide range of uses will be permitted where compatibility among adjacent uses can be achieved. The primary uses permitted in the CENTRAL POLICY AREA, as shown on Schedule "A", will be for the following uses:

Commercial uses such as, but not limited, retail department stores; food specialty...; and in keeping with the Commercial policies set out in Subsection A.2.2 of this Plan."

B.3.3.1 Council will maintain and enhance the supply of short-term PARKING in the City through the operation of the Municipal Parking Authority and requirements for the provision of PRIVATE PARKING.

B.3.3.6 Where necessary and feasible, off-street PARKING, driveways and/or loading areas adjacent to Residential Uses will be suitably screened or buffered through the use of fences, berms or other appropriate landscape treatment, all PARKING areas will be suitably surfaced to resist degradation from the elements or use and, where deemed appropriate, be illuminated to facilitate and ensure the safety and convenience of pedestrian or vehicular access to the land uses served thereby."

The proposal complies with the intent of the Official Plan.

NEIGHBOURHOOD PLAN

Designated for "SINGLE AND DOUBLE" residential development on the approved Beasley Neighbourhood Plan, the proposal does not comply. Approval of the application would require a redesignation to "COMMERCIAL".

COMMENTS RECEIVED

- The Building Department, Traffic Department, Hamilton Region Conservation Authority and the Hamilton-Wentworth Regional Police Department have no comments or objections.
- The Hamilton-Wentworth Engineering Department has advised that:

"According to our records and Survey Plan P812(A) the existing road allowance width of Hughson Street North is 20.12 m (66 feet). No further widening is anticipated at this time. Details of access, etc. will be subject to the approval of the Traffic Department."

COMMENTS

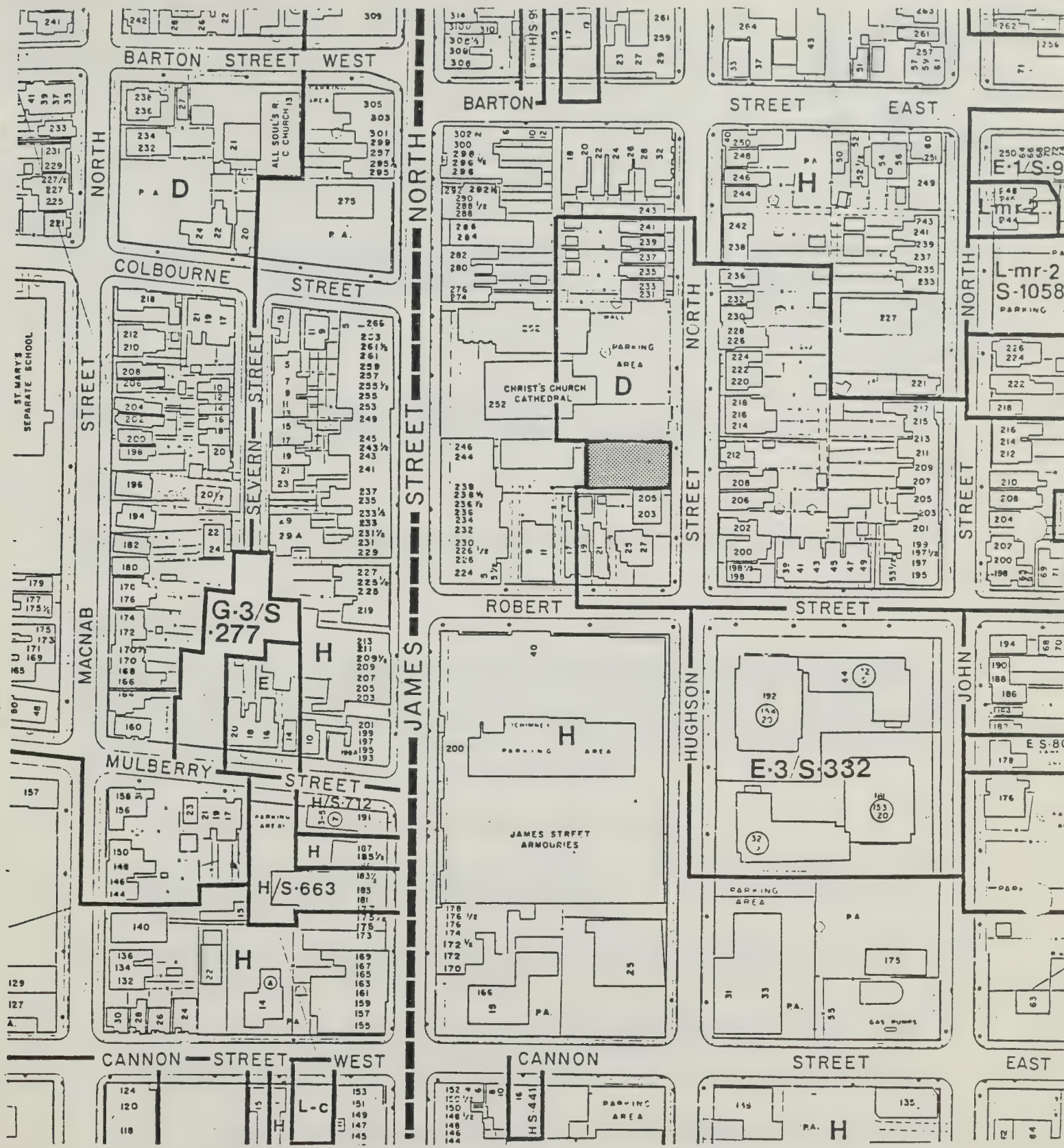
1. The proposal complies with the intent of the Official Plan.
2. The proposal would require an amendment to the approved Beasley Neighbourhood Plan to redesignate the subject lands from "SINGLE AND DOUBLE" residential to "COMMERCIAL".
3. The application has merit and can be supported for the following reasons:
 - i) the lands were acquired by the City through the Hamilton Parking Authority to help alleviate problems associated with on-street parking in this area adjacent to the downtown core;
 - ii) it is compatible with the surrounding land uses including a parking lot and a church to the north, and commercial development to the west.
4. The "G-3" (Public Parking Lots) District regulations do not permit any buildings, except one not exceeding 6.0 m² (64.58 sq.ft.) in area for use only as a shelter for a parking lot attendant. In addition, a visual barrier not less than 1.2 m in height nor more than 2.0 in height is required along every side or rear property line which adjoins a residential district. In this case the northerly side lot line adjoins a parking lot, while the southerly side lot line adjoins single-family and two-family dwellings. In this regard, it is suggested that the requirement of a visual barrier along the northerly side lot line adjacent to the established parking lot not apply. With regard to the southerly side lot line, it would be appropriate to require a minimum 1.5 m wide landscaped strip to be provided and maintained, and that a visual barrier not less than 1.2 m high nor more than 2.0 m high be provided and maintained.

With regard to the front yard, it is suggested that a minimum 1.5 m wide landscaped strip be provided and maintained along the lot line adjoining Hughson Street North, except for any area used for access driveway(s).
5. The "G-3" (Public Parking Lots) District is subject to Site Plan Control By-law 79-275 as amended by By-law 87-223. In this regard, matters such as landscaping, fencing, grading, drainage, parking layout and access, etc., can be reviewed at the site plan approval stage of development. However, because a building permit is not required for a parking lot, it is suggested that the amending By-law not be forwarded for passage by City Council until such time as a site plan has been approved by the Planning and Development Committee.

CONCLUSION

On the basis of the foregoing, the application can be supported.

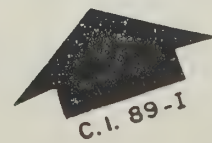
GAW/ma



LEGEND



SITE OF THE APPLICATION



12.

FOR ACTION

REPORT TO: SUSAN REEDER, SECRETARY
PLANNING AND DEVELOPMENT
COMMITTEE

DATE: February 27, 1990
COMM.FILE:
DEPT.FILE: ZA-89-134
Rushdale
Neighbourhood

FROM: J.D. THOMS, COMMISSIONER
PLANNING AND DEVELOPMENT DEPARTMENT

SUBJECT:

Modification in zoning - No. 25 Redmond Drive and No. 549 Stone Church Road East.

RECOMMENDATION:

That approval be given to Zoning Application 89-134, Hamilton General Homes (1971) Ltd., owner, requesting a further modification to the "G-4" (Designed Shopping Centre) District regulations, to add a video store and gift shop to the list of permitted uses under the "G-4" District, for the properties located at No. 25 Redmond Drive and No. 549 Stone Church Road East, as shown on the attached maps marked as APPENDICIES "A" and "B", on the following basis:

- i) That By-laws 88-267 and 89-326 be repealed in their entirety.
- ii) That Block "1", as shown on APPENDIX "B", be rezoned from "AA" (Agricultural) District to "G-4" (Designed Neighbourhood Shopping Centre) District;
- iii) That Block "2", as shown on APPENDIX "B", be rezoned from "C" (Urban Protected Residential, etc.) District to "G-4" (Designed Neighbourhood Shopping Centre) District;
- iv) That the "G-4" (Designed Neighbourhood Shopping Centre) District regulations as contained in Section 13D of Zoning By-law No. 6593, applicable to Blocks "1" and "2", as shown on APPENDIX "B", be modified to include the following variances as special requirements:
 - a) That notwithstanding Section 13D(1)B, the following additional commercial uses shall be permitted:
 - 1) video store;
 - 2) gift shop.

- b) That notwithstanding Section 13D(1)B, the following commercial uses shall be prohibited:
 - 1) restaurant or refreshment room with or without any dancing or other entertainment including music;
 - 2) outdoor patio.
- c) That notwithstanding clause b), the following commercial use shall be permitted within the existing building located at No. 549 Stone Church Road East, shown as Block "1" on APPENDIX "B";
 - 1) restaurant excluding a refreshment room without any dancing or other entertainment except music.
- d) That Section 13D(5) shall not apply.
- v) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S- , and that the subject lands on Zoning District Map E-27C be notated S- ;
- vi) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-27C for presentation to City Council;
- vii) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

EXPLANATORY NOTE:

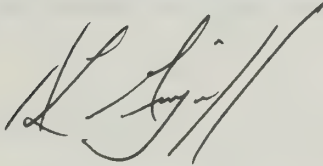
The purpose of this by-law is to repeal By-laws 88-267 and 89-326 applicable to the subject lands, and to provide for changes in zoning from "AA" (Agricultural) District and "C" (Urban Protected Residential, etc.) District to "G-4" (Designed Neighbourhood Shopping Centre) District, modified, for the properties located at No. 25 Redmond Drive and No. 549 Stone Church Road East, as shown on the attached map marked as APPENDIX "B".

The effect of the by-law is to permit the development of the subject lands for a neighbourhood shopping centre.

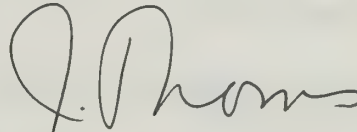
In addition, the by-law provides for the following variances:

- to permit a video store and gift shop in addition to the permitted uses in the "G-4" District;
- to prohibit a restaurant or refreshment room with or without any dancing or other entertainment including music, and an outdoor patio.

- to allow a restaurant (excluding a refreshment room) without any dancing or other entertainment except music, only within the existing stone house at No. 549 Stone Church Road East;
- the provisions for maximum lot depth and maximum lot area shall not apply.



A.L. Georgieff, M.C.I.P.
Director of Local Planning



J.D. Thoms, M.C.I.P.
Commissioner
Planning and Development Department

FINANCIAL IMPLICATIONS:

N/A

APPLICANT:

Hamilton General Homes Ltd., owner.

BACKGROUND:

- ZA 88-64 (By-law 88-236)

In 1988, the applicant requested a change in zoning from "C" (Urban Protected Residential, etc.) District to "G-4" (Designed Neighbourhood Shopping Centre) District, modified, to permit the development of the lands identified as Block "1" on Appendix "A", for a neighbourhood shopping centre for a limited number of commercial uses (i.e. grocery store, medical offices, some types of business offices, bakery, hardware store, etc.). In addition, an Official Plan Amendment was required to redesignate the lands from "RESIDENTIAL" to "COMMERCIAL".

At the time, the applicant was advised that it would be appropriate to include the parcel of land at No. 549 Stone Church Road East (see Block "2" of Appendix "A") in the proposed development. The applicant was unable to purchase these lands.

The Planning and Development Committee, at its meeting of October 11, 1988, approved the application and on November 8, 1988, City Council adopted By-law 88-236.

- DA 89-27

On July 25, 1989, the site plan for the property located at No. 25 Redmond Drive was approved. The development included two buildings: a one storey, 1,410 m² building at the rear of the property and a smaller one storey building having a gross floor area of 368 m² fronting on Stone Church Road East.

- Committee of Adjustment (A 89:192)

On February 8, 1989, the Committee of Adjustment approved an application to permit a sign in conjunction with the shopping centre.

- ZA 89-53 (By-law 89-236)

In 1989, the owner of lands located at No. 549 Stone Church Road East requested a change in zoning from "AA" (Agricultural District) to "G-4" District for the full range of commercial uses under the "G-4" District.

On October 10, 1989, the Planning and Development Committee approved the application with a modification to allow a restaurant use only within the existing building. By-law 89-326 was passed by City Council on November 14, 1989.

- Proposal

In 1989, Hamilton General Homes purchased No. 549 Stone Church Road East. Accordingly, the applicant has requested that both properties (Blocks "1" and "2") be rezoned to establish uniform zoning across the lands which would include the full range of commercial uses, a restaurant only within the existing building (No. 549 Stone Church Road East), and an exemption from the lot area requirements. In addition, he has requested that a video store and a gift shop be added to the list of permitted uses.

- DA 90-03

In January, the applicant submitted a new development application to amend his previous DA. The applications are basically the same, with the exception that the building fronting on Stone Church Road will be 1,046 m² instead of 368 m².

LOT SIZE AND AREA:

- 159 m (521 ft.) of frontage on Redmond Drive;

- 30 m (98 ft.) to 57 m (187 ft.) of lot depth; and,
- 0.6 ha (1.5 ac.) of lot area.

LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	vacant stone building	"G-4" (Designed Neighbourhood Shopping Centre) District
<u>Surrounding Lands</u>		
to the north	single-family dwellings	"C" (Urban Protected Residential, etc.) District
to the south	single-family dwellings, hydro right of way	"D" (Urban Protected Residential - One and Two Family Dwellings, Townhouses) District
		"AA" (Agricultural) District
to the east	hydro right of way	"AA" (Agricultural) District
to the west	townhouses	"RT-20" (Townhouse - Maisonette) District

OFFICIAL PLAN:

Block "1" on APPENDIX "B" is designated "RESIDENTIAL" and Block "2" is designated "COMMERCIAL" on Schedule "A". The following polices, among others, apply:

- "A.2.2.1 The primary uses permitted in the areas exceeding .4 hectare designated on Schedule "A" as COMMERCIAL will be for Commerce. In this regard, Commerce is defined as establishments involved in the buying and selling of goods and services; business offices; and hotels, convention and entertainment facilities.
- A.2.2.14 The EXTENDED COMMERCIAL category applies to existing stretches of individually managed Commercial establishments located along Arterial Roads, serving both pedestrian and automobile borne trade. It consists of:
- "Ribbon" Commercial uses on smaller lots serving predominantly residents and pedestrians in the vicinity, with some specialized commercial uses attracting

automobile borne traffic from beyond the local area; and,

- ii) Larger scaled "Highway" Commercial uses on deep lots, reliant on locations readily accessible to private vehicles specifically coming to, and parking on, the premises to do business."

Block "2" complies with the intent of the Official Plan.

Block "1" is designated "RESIDENTIAL". The primary permitted use is for dwellings. However, the following policy applies:

"D.8.2 The boundaries between the classes of land use designated on Schedule "A" by patterned areas, as well as any other boundaries indicated on Schedules "B", "B-1", "B-2", "C", "D", "F", "G" and "H" are only intended to be general and not to define the exact limits of any land use or policy. It is intended, therefore, that minor adjustments may be made in respect of these boundaries in the Zoning By-law without the necessity of further amending this Official Plan, so long as such By-law conforms to the general intent and purpose of this Plan."

Based on Policy D.8.2, Block "1" can be considered as a minor extension of the "COMMERCIAL" designation and, therefore, does not conflict with the intent of the Plan.

NEIGHBOURHOOD PLAN:

The subject lands are designated "Commercial" in the approved Rushdale Neighbourhood Plan. The proposal complies.

RESULTS OF CIRCULARIZATION:

- The following Departments and agencies have no comments or objections:
 - Traffic;
 - Hamilton Region Conservation Authority.
- The Building Department has advised that:
 - "1. At the present time, this property has two site specific by-laws. It is recommended that the restrictions of the by-laws be repealed and a new by-law be approved to establish the special requirements for the entire property.
 2. The entire lot area and lot depth exceeds the requirements of Section 13D(5) of By-law 6593."

- The Hamilton-Wentworth Engineering Department has not submitted any comments to date.

COMMENTS:

- 1) The proposal complies with the intent of the Official Plan and approved Rushdale Neighbourhood Plan.
- 2) The proposal can be supported for the following reason:

- a) There are two separate by-laws on the subject lands because the rezonings were undertaken at different times and by separate parties. As previously outlined in the BACKGROUND section, the "G-4" District regulations for Block "2" were modified to permit limited commercial uses, whereas Block "1" has the full range of commercial uses (see APPENDIX "B").

It is the applicant's intent to establish uniform zoning for the entire property since it will be developed on a comprehensive basis. In this regard, it would be appropriate to repeal By-laws 88-267 and 89-326 and establish one by-law for the entire parcel. Since the by-laws are being repealed, the zoning reverts to the previous districts which are "AA" for Block "1" (By-law 89-326) and "C" (By-law 88-267) for Block "2".

- 3) Approval of the application would require the following variances:

- Permitted Uses - Section 13D(1)B

The applicant has requested that a video store and a gift shop be added to the list of permitted uses in the "G-4" District. These proposed uses are no less feasible than other uses permitted in the "G-4" District (e.g. grocery store, hardware store, bakery) and they are intended to serve the residents in the surrounding neighbourhood. Furthermore, a video store was not envisaged when the Zoning By-law was adopted in 1950.

In addition, it is appropriate to restrict the restaurant use to the existing building (No. 549 Stone Church Road) only and prohibit outdoor patios entirely. This restriction was previously established in By-law 89-326.

- Lots Size and Area - Section 13D(5)

The "G-4" District regulations restrict the lot depth to 45 m and the lot area to 0.4 ha. This site has a lot depth of 57 m and a lot area of 0.6 ha. Since, the size and depth of the lot is a minimal increase over the existing regulations and the fact that the property

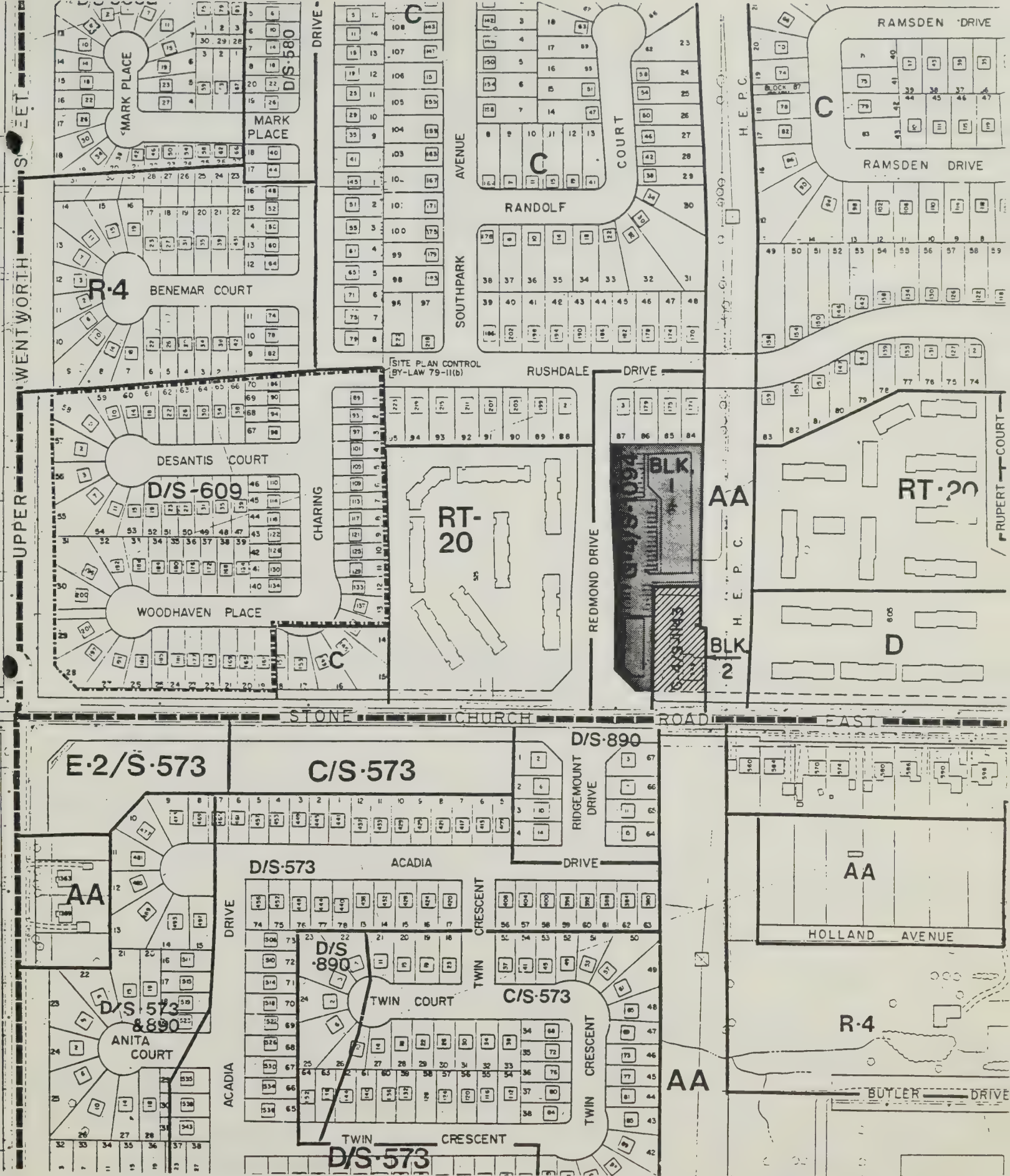
has previously been zoned "G-4", the variance can be supported.

- 4) Under the "G-4" District regulations the lands are subject to Site Plan Control By-law 79-275, as amended by By-law 87-223 . As indicated, the applicant has submitted a revised site plan for the subject lands. Matters such as access, landscaping and parking will be dealt during the site plan approval process.

CONCLUSION:

Based on the foregoing, the proposal can be supported.

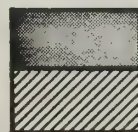
JHE/ma
WPZA89134



LEGEND

BLOCK 1

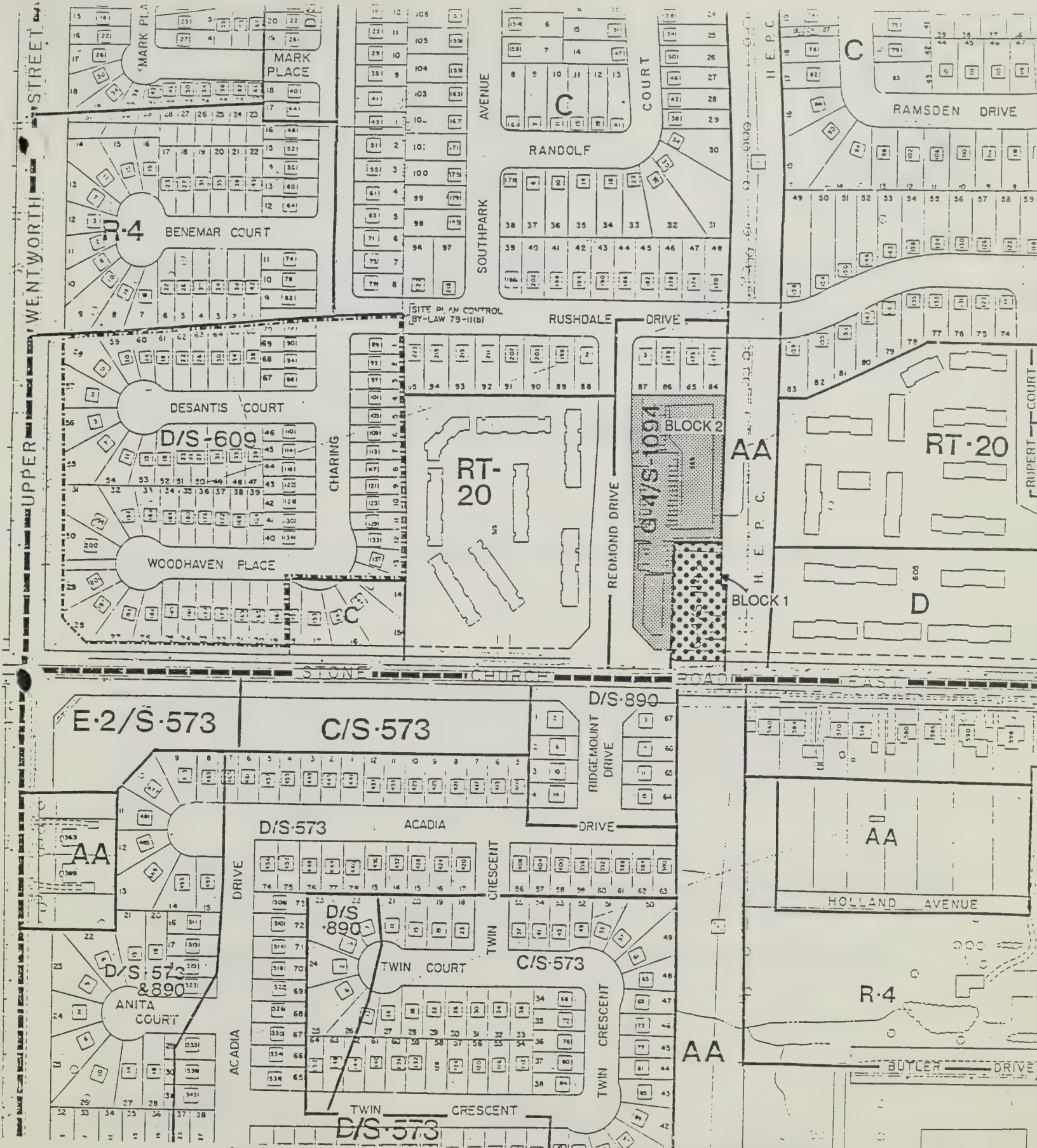
BLOCK 2



SITE OF THE APPLICATION



APPENDIX A



Legend

Change in zoning from:



"AA" (Agricultural) District to "G-4" (Designed Neighbourhood Shopping Centre) District, modified.

"C" (Urban Protected Residential, etc.) District to "G-4" (Designed Neighbourhood Shopping Centre) District, modified.



13.

FOR ACTION

REPORT TO: SUSAN REEDER, SECRETARY
PLANNING AND DEVELOPMENT
COMMITTEE

DATE: February 20, 1990
COMM. FILE:
DEPT. FILE: ZA-89-91
Barnstown
Neighbourhood

FROM: J.D. THOMS, COMMISSIONER
PLANNING AND DEVELOPMENT DEPARTMENT

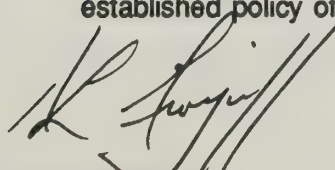
SUBJECT:

Request for a modification in zoning - land at the northwest corner of Rymal Road East and Upper Wentworth Street.

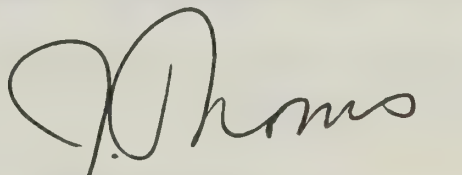
RECOMMENDATION:

That Zoning Application 89-91, 822827 Ontario Inc. (A. DiSilvestro, E. Parente, and N. Zaffiro), owners, requesting a further modification to the "G-1" (Designed Shopping Centre) District regulations, to permit a restaurant or refreshment room, a manual car wash, a mechanical car wash, a coin operated car wash, a high speed mechanical car wash, and an automobile service station, for land located at the northwest corner of Rymal Road East and Upper Wentworth Street, as shown on the attached map marked as APPENDIX "A", be **DENIED**, for the following reasons:

- i) It conflicts with the established policy of City Council for this property which restricts the range of "G-1" (Designed Shopping Centre) District uses. In this regard, a previous application requesting the addition of the same uses was denied by City Council on March 14, 1989; and,
- ii) The applicant has not submitted any additional or new information to justify changes to the established policy of Council.



A.L. Georgieff, M.C.I.P.
Director of Local Planning



J.D. Thoms, M.C.I.P.
Commissioner
Planning and Development Department

FINANCIAL IMPLICATIONS

N/A

BACKGROUND

- Proposal

The applicant is requesting a further modification to the established "G-1" (Designed Shopping Centre) District regulations to permit the following uses: a restaurant or refreshment room, a manual car wash, a mechanical car wash, a coin operated car wash, a high speed mechanical car wash, and an automobile service station. The applicant is also requesting to prohibit a circus and a theatre from the permitted uses.

- Zoning Application 88-112

At its meeting held on March 1, 1989, the Planning and Development Committee denied a similar application (Zoning Application 88-112) requesting a change in zoning on the subject property from a modified "G-1" (Designed Shopping Centre) District to "G-1" (Designed Shopping Centre) District unqualified.

City Council, at its meeting held on March 14, 1989, adopted the recommendation of the Planning and Development Committee.

- Zoning Application 88-12

At its meeting held on July 13, 1988, the Planning and Development Committee approved Zoning Application 88-12 which, among other things, rezoned the subject lands from "AA" (Agricultural) District to "G-1" (Designed Shopping Centre) District.

In addition, the committee modified the "G-1" (Designed Shopping Centre) District zoning applicable to the subject lands to prohibit the following uses: a restaurant or refreshment room, a manual car wash, a mechanical car wash, a coin-operated car wash, a high-speed mechanical car wash, a high-speed mechanical car wash, and an automobile service station.

At its meeting held on October 11, 1988 City Council passed By-law No. 88-241 which implemented the foregoing.

- Zoning Application 88-24

At its meeting held on September 14, 1988, the Planning and Development Committee approved Zoning Application 88-24 which rezoned the lands located opposite the subject property at the

northeast corner of Rymal Road East and Upper Wentworth Street from "AA" (Agricultural) District to "G-1" (Designed Shopping Centre) District.

At its meeting of October 25, 1988 City Council passed By-law No. 88-252 which implemented the foregoing.

APPLICANT

822827 Ontario Inc. (Anthony DiSilvestro, Elena Parente, and Neleda Zaffiro), owners.

LOT SIZE AND AREA

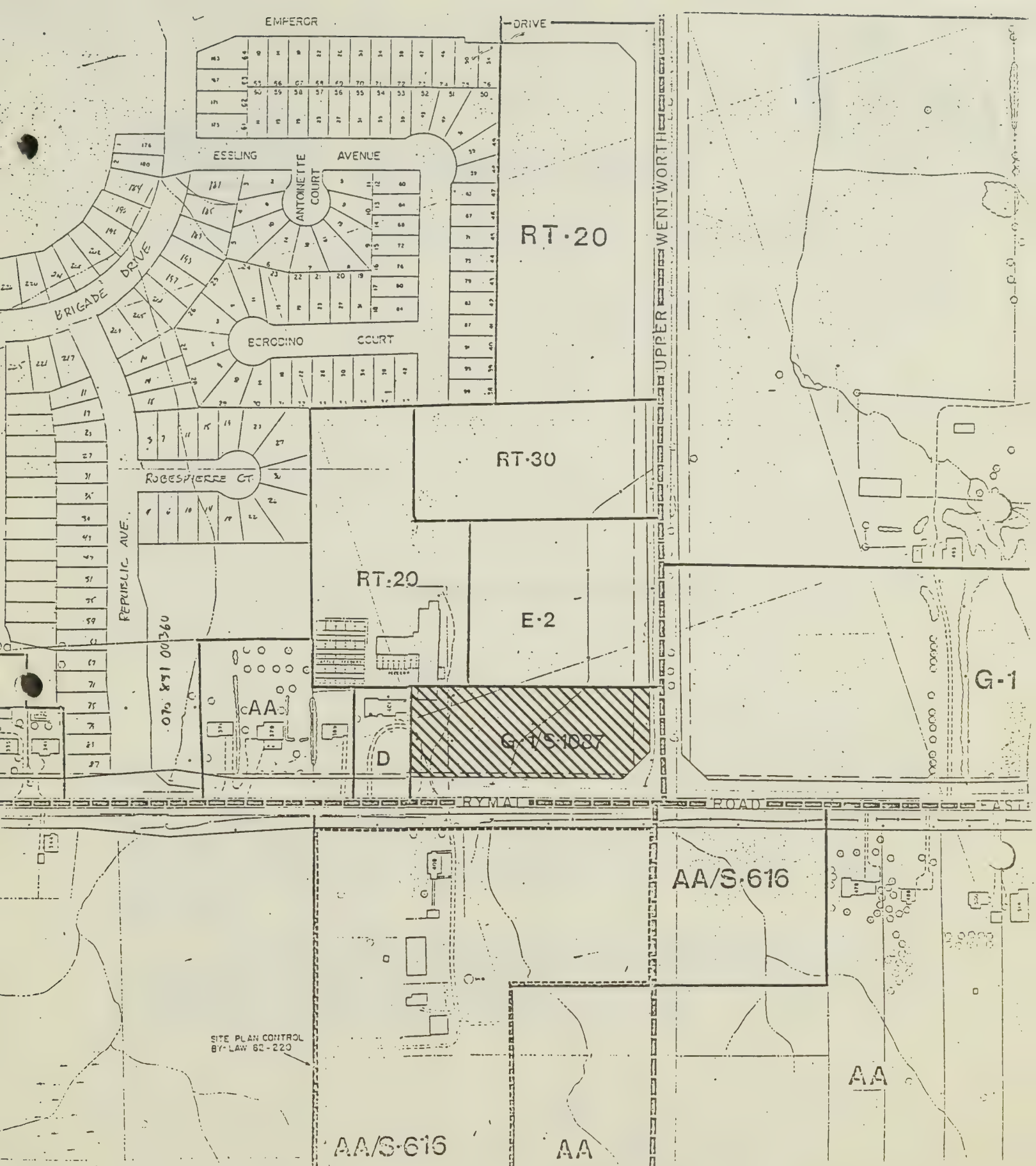
- 136.025 m (446.3 feet) of lot frontage on Rymal Road East;
- 56.083 m (184 feet) of lot frontage on Upper Wentworth Street; and
- 0.77 ha (1.9 acres) of lot area.

LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	vacant	"G-1" (Designed Shopping Centre) District modified
<u>Surrounding Lands</u>		
to the north	vacant	"E-2" (Multiple Dwellings, Lodges, Clubs, etc.) District
to the south	farm	"AA" (Agricultural) District modified
to the west	single-family residence	"D" (Urban Protected Residential, One and Two Family Dwellings, Townhouses, etc.) District
to the east	vacant	"G-1" (Designed Shopping Centre) District

OFFICIAL PLAN

Designated "COMMERCIAL" on Schedule "A" - Land Use Concept, the proposal does not conflict with the intent of the Official Plan. In addition, the proposal is located within Special Policy Area 41 and the following policy is applicable:



Legend



Site of the Application



APPENDIX A

APPENDIX A



THE EFFORT TRUST COMPANY

MAR 1 1990

242 MAIN STREET EAST HAMILTON, ONTARIO, CANADA L8N 1H5 TELEPHONE (416) 528-8956

February 27, 1990

The Corporation of the
City of Hamilton
71 Main Street West
Hamilton, Ontario
L8N 3T4

Attention: Planning and Development Department

Dear Sirs:

RE: Zoning Application No. 89-91
G-1 Rezoning - Wentworth Estates

On behalf of Rymal Square Developments Inc., the registered owners of the property located on the north-east corner of Rymal Road and Upper Wentworth Street (formerly owned by Arthur Weisz, Benjamin Sauder et al), we wish to express our support for the above-noted rezoning application. The development of this site as either a small strip plaza or with fast food and service station would be desirable for the benefit of the area and commercial traffic, and as well, would benefit our proposed commercial development.

This proposal usage, although permitted on our property, would be more appropriately located on a small commercial site such as the applicant's, for it is not a desirable use, especially in the case of a service station, for our 12 acre commercial plaza.

Yours very truly,

THE EFFORT TRUST COMPANY

Per:

ARTHUR WEISZ

AW:ja

The Effort is for you.

14.

FOR ACTION

REPORT TO:

SUSAN REEDER, SECRETARY
PLANNING AND DEVELOPMENT
COMMITTEE

DATE: February 27, 1990

COMM. FILE:

DEPT. FILE: ZA-89-122

Bartonville

Neighbourhood

FROM:

J.D. THOMS, COMMISSIONER
PLANNING AND DEVELOPMENT DEPARTMENT

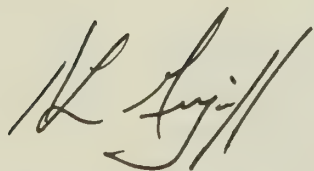
SUBJECT:

Request for a modification to zoning - property located at 773 Lawrence Road.

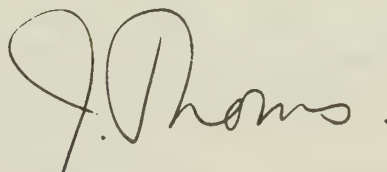
RECOMMENDATION:

That Zoning Application 89-122, Ahmad Jan Karchi, owner, requesting a modification to the established "C" (Urban Protected Residential, etc.) District to legalize the established three-family dwelling located at No. 773 Lawrence Road, as shown on the attached map marked as APPENDIX "A", be **DENIED** for the following reasons:

- i) It conflicts with the intent of the Official Plan, in that it would allow for an indiscriminate mix of housing types by introducing a three family dwelling into an area which is predominately occupied by single-family dwellings.
- ii) It is an over-intensification of land use, in that the site cannot accommodate the four required parking spaces in other than the required front yard which is prohibited by the Zoning By-law; and, the third dwelling unit (bachelor) has only 49.60m² of floor area, whereas the Zoning By-law requires a minimum of 65.0 m² of floor area.
- iii) Approval of the application would encourage other similar applications, which, if approved would undermine the intent of the Zoning By-law and change the character of the area.



A.L. Georgieff, M.C.I.P.
Director of Local Planning



J.D. Thoms, M.C.I.P.
Commissioner
Planning and Development Department

FINANCIAL IMPLICATIONS

N/A

BACKGROUND

o Proposal

The purpose of the zoning application is to legalize the established three-family dwelling located at No. 773 Lawrence Road.

On the basis of information provided by the applicant through his agent, the first floor unit has 1,017 sq.ft. floor area, the second floor unit has 1,280 sq.ft. of floor area, and the bachelor unit in the basement has 534 sq.ft. of floor area.

The Regional Assessment Office has advised that the applicant purchased the property during February of 1988.

o Zoning Verification

On January 25, 1988 the solicitor for the applicants requested a zoning verification certificate for No. 773 Lawrence Road stating that the present use was a duplex (see APPENDIX "B" and APPENDIX "C" attached). On February 3, 1988 the Building Department returned the requested information to the applicants solicitor stating that the proposed use as a two-family dwelling is permitted, provided that it has been used continuously since 1968 (date of conversion) to the present time.

o Order To Comply

On August 21, 1989 the Building Department issued an Order to Comply (see APPENDIX "D") to the applicant advising him to reduce the occupancy to a two-family dwelling or legalize the present use.

APPLICANT

Ahmad Jan Karchi, owner.

LOT SIZE AND AREA

- o 13.41 m (44.0 ft.) of lot frontage on Lawrence Road;

- 392.78 m² (4,228.4 sq.ft.) of lot area.

LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	Three-family dwelling	"C" (Urban Protected Residential, etc.) District
<u>Surrounding Lands</u>		
to the north	Single-family dwellings	"C" (Urban Protected Residential, etc.) District
to the south	Single-family dwellings	"C" (Urban Protected Residential, etc.) District
to the east	Single-family dwellings	"C" (Urban Protected Residential, etc.) District
to the west	Briarwood Junior Vocational School	"C" (Urban Protected Residential, etc.) District and "H" (Community Shopping and Commercial, etc.) District

OFFICIAL PLAN

Designated "Residential" on Schedule "A" - Land Use Concept Plan of the Official Plan and subject to, among others, the following policies:

- "A.2.1.1 The primary uses permitted in the areas designated on Schedule "A" as RESIDENTIAL will be for dwellings. Various types of dwellings are included within this designation, while preference will be given to the locating of similar densities of development together.
- A.2.1.8 It is the intent of Council that a variety of housing styles, types and densities be available in all RESIDENTIAL areas of the City, and further, that proposals for new development or redevelopment will contribute to the desired mix of housing where practicable. In this regard, Council will be guided by the Housing Policies of Subsection C.7 and the Neighbourhood Plan Policies of Subsection D.2.
- C.7.1 In the development of new RESIDENTIAL areas and, as far as practicable, in the infilling or redevelopment of established areas, Council may undertake or require the following in order to achieve high standards of RESIDENTIAL amenity:

- i) Provision and maintenance of adequate off-street parking.

C.7.2 Varieties of RESIDENTIAL types will not be mixed indiscriminately, but will be arranged in a gradation so that higher-density developments will complement these of a lower density, with sufficient spacing to maintain privacy, amenity and value."

The proposal to introduce a three-family dwelling into an area of primarily established single-family dwellings is considered to conflict with intent of the Official Plan. However, approval of the application would not require an Official Plan Amendment.

NEIGHBOURHOOD PLAN

A Neighbourhood Plan is not available for this area.

COMMENTS RECEIVED

- The Building Department has advised that:
 - "1. A three-family dwelling is not a permitted use.
 - 2. A three family dwelling requires four parking spaces with sufficient manoeuvring spaces located on the same lot and not in the required front yard. Each dwelling unit shall have a minimum 65.0 m² of floor area excluding cellar area or other such space which cannot be lawfully used as living quarters.
 - 3. The Traffic Department has advised that:

"...we have reviewed the above-noted application and find it satisfactory subject to the applicant providing the minimum four parking spaces required by the By-law."
- The Hamilton Region Conservation Authority and the Hamilton-Wentworth Regional Police Department have no comments or objections.
- The Hamilton-Wentworth Engineering Department has advised that:

"In the absence of any details shown, any works which may occur within the Lawrence Road road allowance must conform to the Region of Hamilton-Wentworth Roads Use By-law."

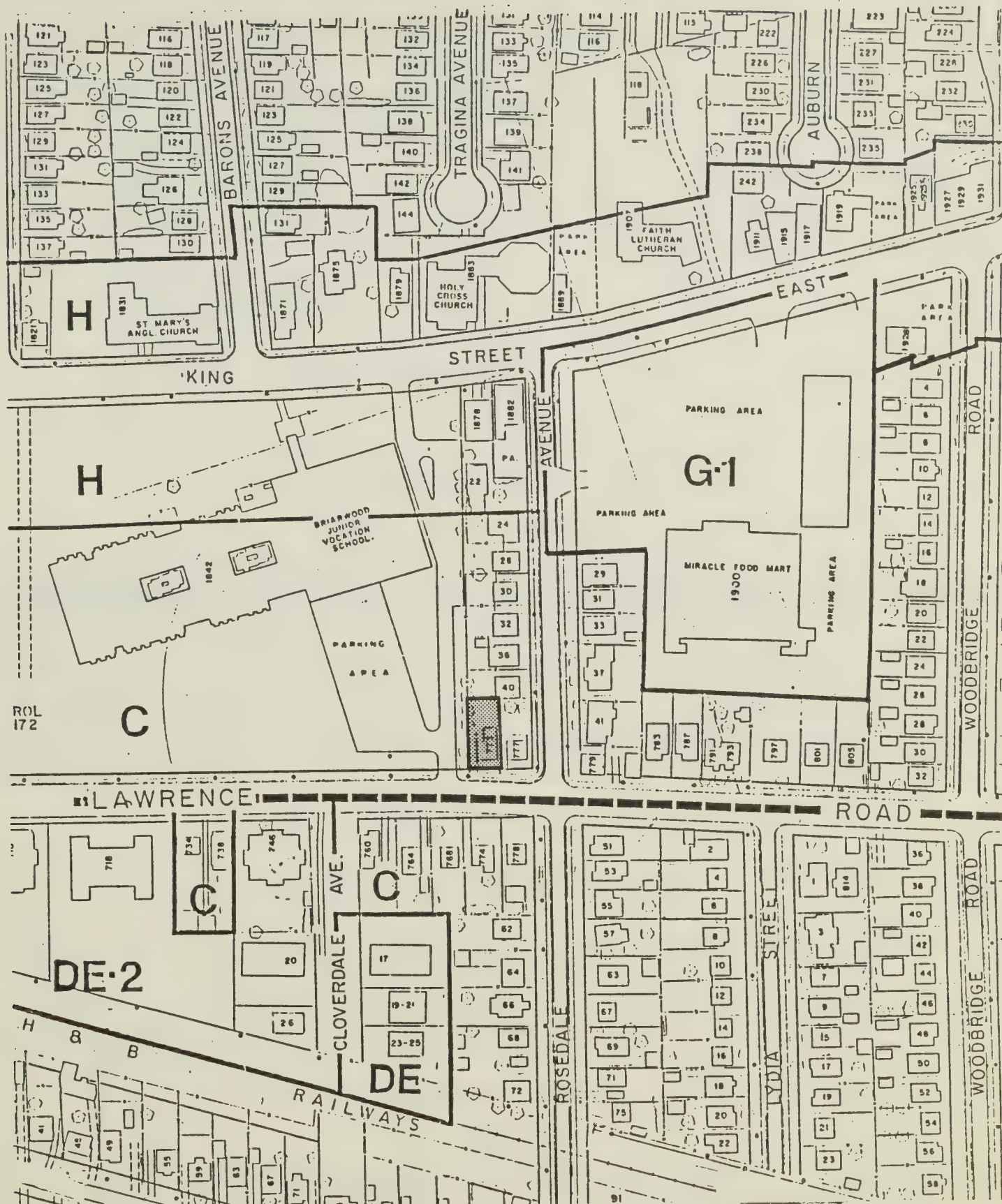
COMMENTS

1. The proposal conflicts with the intent of the Official Plan as it involves the indiscriminate mix of a three-family dwelling into an area primarily characterized by single-family dwellings. However, approval of the application would not require an Official Plan Amendment.
2. The proposal cannot be supported for the following reasons:
 - o it conflicts with the intent of the Official Plan;
 - o it represents an intrusion of a 3 family dwelling into an area which is characterized by single-family dwellings;
 - o it is an over-intensification of land use, in that the site cannot accommodate the four required parking spaces, in other than the required front yard which is prohibited by the Zoning By-law; and, the third dwelling unit (bachelor) has only 49.60 m² of floor area, whereas the Zoning By-law requires a minimum of 65.0 m² of floor area.
 - o approval of the application would encourage other similar applications which, if approved, would undermine the intent of the Zoning By-law, change the character of the area, and would condone the actions of illegally converting the dwelling.

CONCLUSION

On the basis of the foregoing, the application cannot be supported.

GW/ma
WPZA89122



ZA89-122

Dirk C. VanderBent, B.Math., LL.B.
barrister and solicitor

Suite 4200, 100 Main Street East
Hamilton, Ontario L8N 3W6
Telephone (416) 525-9717

January 25, 1988

3000
A 905 3000
A 905 3000

The City of Hamilton
71 Main Street West
Hamilton, Ontario

Attention: Building Department

Dear Sirs:

Re: Karchi purchase from Robertson
773 Lawrence Road, Hamilton

I act for the purchasers of the above-mentioned property. The closing date is February 1, 1988.

Please advise us if the property complies with all applicable building and zoning requirements as set out in the By-laws governing the property and specifically:

1. if the land complies with lot area, lot frontage and lot depth requirements;
2. if the building complies with height, floor area, density and set back requirements;
3. if there are any prohibitions or limitations with respect to the use of the land and building;
4. if the Municipal Council has passed a by-law under Section 49 of The Planning Act; and,
5. if there are any outstanding work orders or notices of violation against the property.

Enclosed please find a completed application for a zoning verification certificate, along with a cheque in the amount of \$50.00 to cover your fee.

Thank you for your assistance regarding this matter.

Sincerely,

Dirk C. VanderBent

DCV/hc
Encl.

CITY OF HAMILTON
DEPARTMENT OF BUILDINGS
\$50.00
JAN 26 1988
REC. BY DCV DATE 1/26/88
REF'D TO DCV DATE 1/26/88
REF'D TO DCV DATE 1/26/88
REF'D TO DCV DATE 1/26/88

APPENDIX B

ZV

THE CORPORATION OF THE CITY OF HAMILTON

DEPARTMENT OF BUILDINGS
CITY HALL HAMILTON, ONTARIO 526-2720

FILE NO. _____

ZONING VERIFICATION CERTIFICATE

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BETWEEN _____ AND _____

OWNER David Robertson in Trust ADDRESS 773 Lawrence Road, Hamilton, Ontario.PROPOSED USE (BE SPECIFIC) Duplex

NUMBER OF DWELLING UNITS _____

NOTE: FOR BUILDING LOCATION EXAMINATION INCLUDE TWO ORIGINAL SURVEY PLANS.

EXISTING BUILDING ☐ PRESENT USE DuplexPROPOSED BUILDING ☐ SURVEY ATTACHED YES ☐ NO ☒VACANT LAND ☐

SIGNATURE _____

INFORMATION REQUESTED BY
AND ADDRESS TO WHICH CERTIFICATE
WILL BE RETURNED.NAME Dirk C. VanderBent, Barrister and Solicitor,ADDRESS Suite 4200-100 Main Street, East, Hamilton, Ontario.DATE January 25, 1988

LBN 346.

BELOW THIS LINE FOR BUILDING DEPARTMENT USE ONLY

FROM THE RECORDS ON FILE IN THE DEPARTMENT OF BUILDINGS, ON THIS DATE, THIS PROPERTY IS LOCATED IN A C DISTRICT.(SEE SECTION 9 OF ZONING BYLAW 6593 AS AMENDED BY BYLAW XXXXXXXXXX)AND COMMITTEE OF ADJUSTMENT No. _____ DISTRICT MAP No. E66THE PROPOSED USE: IS PERMITTED ☒ IS NOT PERMITTED ☐ IS A LEGALLY ESTABLISHED NON CONFORMING USE ☐
THIS PROPERTY IS SUBJECT TO THE PLAN CONTROL BYLAW No. 79-275. YES ☐ NO ☒COMMENTS A building permit was issued in 1968 to convert the dwelling to a two-family dwelling. The two-family dwelling is a permitted use provided that it has been used continuously since 1968 to the present time.

FEB 03 1988

IMPORTANT:-

THIS CERTIFICATE DOES NOT INDICATE THAT AN EXISTING BUILDING OR ITS USE CONFORMS WITH THE REQUIREMENTS OF APPLICABLE BY LAWS, ACTS, AND REGULATIONS. NOR THAT A LICENCE WILL BE ISSUED IF REQUIRED NOR THAT THE ZONING WILL NOT BE CHANGED AFTER THE DATE OF ISSUANCE COPIES OF THE CITY BYLAWS MAY BE OBTAINED FROM THE CITY CLERK

THIS CERTIFICATE IS ISSUED WITHOUT LIABILITY ON THE PART OF THE CITY OR ITS OFFICIALS.

ZONING VERIFICATION

ZONING VERIFICATION CERTIFICATE ISSUED BY

ZV No 40287

S.P. PAUL KUPPE

FEE \$ 20.00DATE 1988 Feb. 3

FILE NO:

ORDER TO COMPLY

ISSUED TO	LOCATION
Ahmad Jan Karchi,	773 Lawrence Road, (RES)
773 Lawrence Road,	HAMILTON, Ontario.
Hamilton, Ontario.	
L8K 1Z7	

TAKE NOTICE THAT THE dwelling

AT THE ABOVE LOCATION IS IN CONTRAVENTION OF THE ACT(S)/REGULATION(S)/BY-LAW(S) AS OUTLINED BELOW:

[illegible]

"Pursuant to The Residential Rent Regulation Act, 1986, a copy of this Order is sent to the Residential Rental Standards Board in accordance with Section 15(1

AND TAKE NOTICE FURTHER THAT YOU AS THE OWNER/CONSTRUCTOR/OR PERSON APPARENTLY IN POSSESSION
ARE HEREBY ORDERED TO COMPLY WITHIN **ninety (90) days**

AND TAKE NOTICE FURTHER THAT IN DEFAULT OF COMPLIANCE WITH THE FOREGOING, YOU WILL BE LIABLE UPON CONVICTION, TO THE PENALTIES PROVIDED BY THE SAID ACT/REGULATION/BY-LAW

REGISTERED MAIL	August 21/89	S. Tucker 526-4680	August 21/89
RECEIVED BY	DATE	INSPECTOR	DATE

PHONE DIRECT 526-2782
8 AM - 9 AM

Feb. 20/90

FEB 28 1990

Dear Sir;

We are opposed to the changing of the residence (on 773 Lawrence Rd.) to a 3 family dwelling.

There is insufficient parking for that many people. Also there would be too many children or adults in this small area. This would lead to too much noise + people watching when we want to sit in our backyard.

This area was always a 2 family dwelling. (We did not object.) But now if it was changed to 3, what would stop them to make it 4.

Yours truly Neil Leeson
Marg Leeson

FOR ACTION

REPORT TO:

SUSAN REEDER, SECRETARY
PLANNING AND DEVELOPMENT
COMMITTEE

DATE: March 1, 1990

COMM. FILE:

DEPT. FILE: CI-89-F

FROM:

J.D. THOMS, COMMISSIONER
PLANNING AND DEVELOPMENT DEPARTMENT

SUBJECT:

City Initiative - review of the definition of "Townhouse Dwelling".

RECOMMENDATION:

That approval be given to City Initiative 89-F, to amend Zoning By-law No. 6593 respecting the provisions for "townhouses" and "maisonettes" on the following basis:

- i) That Section 2.(2)A.(viib) of Zoning By-law No. 6593 be amended by deleting the phrase "...not more than eight single-family dwelling units but...", so that it shall read as follows:

"(viib) "Dwelling, Townhouse", shall mean a building not more than one single-family dwelling unit in height, designed and constructed to contain not less than three single-family dwelling units attached to each other, side by side, in one row and in substantial harmony with each other, each of which dwelling units,

(a) has separate front and rear entrances or separate front and side entrances, and

(b) is joined on one or both sides by a party wall to another dwelling unit in the same row;"

- ii) That Section 2.(2)A.(viic) of Zoning By-law No. 6593 be amended by deleting the phrase "...not more than sixteen single-family dwelling units, but...", and by adding "and constructed" after "designed" so that it shall read as follows:

"(viic) "Dwelling, Maisonette" shall mean a building not more than one single-family dwelling unit in height, designed and constructed to contain not less than six single-family dwelling units, fully attached to each other, side by side, in two rows arranged back to back and in substantial harmony with each other, each of which dwelling units,

(a) has a separate front entrance, and

- (b) is joined on one or both sides by a party wall to another dwelling unit in the same row, and
 - (c) is joined by a common vertical back wall extending the length of the building."
- iii) That the "RT-10" (Townhouse) District provisions as contained in Section 10D of Zoning By-law No. 6593, be amended by adding a new subsection to the following effect:

DWELLING UNIT PLACEMENT

- (17) Not more than eight single-family dwelling units shall be attached in a continuous row.
- iv) That "RT-20" (Townhouse - Maisonette) District provisions as contained in Section 10E of Zoning By-law No. 6593, be amended by adding a new subsection to the following effect:

DWELLING UNIT PLACEMENT

- (17)
 - (a) For townhouses, not more than eight single-family dwelling units shall be attached in a continuous row.
 - (b) For maisonettes, not more than sixteen single-family dwelling units shall be provided in one block, and not more than eight single-family dwelling units shall be attached in a continuous row.
- v) That the "RT-30" (Street-Townhouse) District provisions as contained in Section 10F of Zoning By-law No. 6593, be amended by adding a new subsection to the following effect:

DWELLING UNIT PLACEMENT

- (9) Not more than eight single-family dwelling units shall be attached in a continuous row.
- vi) That the "FLOOR AREA RATIO" provisions as contained in subsections 10B(5) - "DE2" (Multiple Dwellings) Districts; 10C(5) - "DE3" (Multiple Dwellings) Districts; 11(5) - "E" (Multiple Dwellings, Lodges, Clubs, etc.) Districts; 11A(5) - "E1" (Multiple Dwellings, Lodges, Clubs, etc.) Districts; 11B(5) - "E2" (Multiple Dwellings, Lodges, Clubs, etc.) Districts and 11C(4) - "E3" (High Density Multiple

Dwellings) Districts be amended by adding a special provision to the following effect:

"Except, that where a multiple dwelling has a townhouse component the "Intensity of Use" requirements for the townhouse dwelling shall be calculated separately, and the gross floor area for the remainder of the multiple dwelling shall be adjusted."

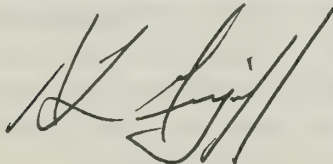
- vii) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 for presentation to City Council; and
- viii) That the proposed changes in zoning are in conformity with the Official Plan for the Hamilton Planning Area.

EXPLANATORY NOTE

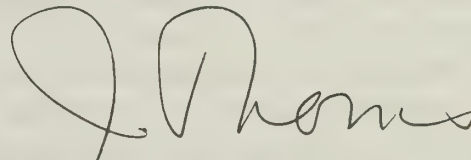
The purpose of the By-law is to provide for a general text amendment to Zoning By-law No. 6593 by clarifying the definition and regulations for "townhouse" and "maisonette" dwellings.

The effect of the By-law is to prohibit more than eight (8) single-family dwelling units being attached in a continuous row for a "townhouse" and "street-townhouse" dwelling; and not more than sixteen (16) single-family dwelling units in one block, of which not more than eight (8) shall be attached in a continuous row for a "maisonette" dwelling.

In addition, the floor area ratio provisions for the multiple dwelling districts (i.e. "DE2", "DE3", "E", "E1", "E2" and "E3") have been amended so that where a multiple dwelling is designed/constructed to contain a "townhouse" component, the "Intensity of Use" requirements (i.e. density) for the "townhouse" dwelling will be calculated separately, and the gross floor area for the remainder of the multiple dwelling will be adjusted accordingly.



A.L. Georgieff, M.C.I.P.
Director of Local Planning



J.D. Thoms, M.C.I.P.
Commissioner
Planning and Development Department

BACKGROUND

At its meeting of July 12, 1989 the Planning and Development Committee requested that the definition of "Townhouse Dwelling" be reviewed with the aim of differentiating such use from a "Multiple Dwelling". At the subsequent meeting of August 16, 1989, the Planning and Development Committee directed that a Public Meeting be held to consider proposed changes to Zoning By-law No. 6593 respecting the definition/regulation of townhouse and maisonette dwellings. In addition, the

Committee directed the Planning and Development Department not to recommend Site Plan Approval for plans where the proponent has utilized by-law inconsistencies to circumvent the intent of the By-law.

PROBLEM

As set out under Section 2.(2)A.(viib) of Zoning By-law No. 6593 a "Townhouse Dwelling" is defined as follows:

"Shall mean a building not more than one single-family dwelling unit in height, designed and constructed to contain not more than eight single-family dwelling units but not less than three single-family dwelling units attached to each other, side by side, in one row and in substantial harmony with each other, each of which dwelling units,

- a) has separate front and rear entrances or separate front and side entrances, and
- b) is joined on one or both sides by a party wall to another dwelling unit in the same row;"

For purposes of By-law interpretation and enforcement, the Building Department has advised that under any multiple dwelling zoning district (e.g. "DE", "E", etc.) except for an "RT-10" & "RT-20" District, a "townhouse dwelling" becomes a "multiple dwelling" when nine (9) or more single-family dwelling units are attached in one row. Consequently, such development would become subject to the By-law regulations for multiple dwellings rather than townhouses, notwithstanding that the form of development is a typical townhouse.

In this regard, a "townhouse dwelling" built under the guise of a "multiple dwelling" would benefit from lower by-law standards respecting landscaped area (25% vs. 40%), parking (1.25 spaces/unit vs. 1.5 spaces per unit), and density (230 m² lot area/unit vs. g.f.a. ratio). Furthermore, depending upon the bulk and scale of development additional breaks respecting yard requirements, separation distances between buildings, etc. could be obtained. Conversely, in some instances certain provisions would be more restrictive (e.g. rear yard requirement).

The intent of including the clause "...not more than eight single-family dwelling units..." in the definition of "townhouse dwelling" was to control the massing of development, not to preclude developments having more than 8 units in a row from the definition. For example, where plans were submitted for a development having ten (10) units in a row, the definition was intended to operate so as to require the proponent to break the development into smaller components (e.g. 7 units and 3 units; 5 and 5; etc.).

ALTERNATIVE ACTIONS

● Amend Definition of Townhouse Dwelling

The definition of "Townhouse Dwelling" could be amended to delete the phrase "...not more than eight single-family dwelling units but ..." so that it reads as follows:

"Dwelling, Townhouse", shall mean a building not more than one single-family unit in height, designed and constructed to contain not less than three single-family dwelling units attached to each other, side by side, in one row and in substantial harmony with each other, each of which dwelling units,

- a) has separate front and rear entrances or, separate front and side entrances, and
- b) is joined on one or both sides by a party wall to another dwelling unit in the same row.

In this regard, any development having (3) or more single-family dwelling units in a row, side by side, would be a "townhouse dwelling". For purposes of controlling the massing of buildings, the appropriate sections of the By-law (e.g. "RT-10" and "RT-20" Districts) would have to be amended to introduce provisions respecting "Dwelling Unit Placement" (i.e. not more than 8 in a row).

However, it should be noted that these actions alone will not preclude innovative designers/builders from circumventing the intent of the By-law. For example, if a building were designed to contain 8 single-family dwelling units in a row, with an end unit containing two dwelling units (e.g. 2 units high) it would, by definition, be considered a "multiple dwelling."

● Amend Definition of Multiple Dwelling

As set out under Section 2.(2)A.(viii) of By-law 6593, a "multiple dwelling" is defined as follows:

"Dwelling, multiple" shall mean a building comprising four or more self-contained Class A dwelling units, whether or not a private garage or any other accessory building is attached except a building comprising a Townhouse Dwelling or a Maisonette Dwelling.

If the definition were amended to reflect traditional definitions of "apartments" by requiring each unit to have access only from an internal corridor the majority of potential loopholes respecting "townhouse" developments would be effectively overcome.

However, the negative aspect of this option would be to preclude innovative multiple dwelling designs (e.g. stacked townhouses). Accordingly, this alternative is not considered beneficial.

● Site Plan Control

Both "townhouse dwellings" and "multiple dwellings" are subject to Site Plan Approval. An effective means of preventing developers from using loop-holes to build "townhouses" under the guise of "multiple dwellings", would be to withhold Site Plan Approval on those developments which circumvent the intent of the By-law. This would compel developers to adhere to the intent and purpose of the By-law, and comply with the applicable by-law regulations, regardless of By-law technicalities.

Consequently, where a proponent was insistent on utilizing loop-holes in the By-law, his only recourse would be to appeal the matter to the O.M.B. (Ontario Municipal Board). Such action is highly unlikely given the time delays involved.

● Density Control

The biggest advantage to a proponent in having a "townhouse" type development built as a "multiple dwelling" is density. Normally, townhouses are required to provide a minimum of 230 m² of lot area per unit (approx. 17 u/ac.), whereas multiple dwellings are regulated by a gross floor area ratio (e.g. "E" District - 1.7 x lot area). Depending upon unit size and building design, typical "townhouse" type developments can be built at higher densities.

A possible way to keep densities at their intended level, would be to require "multiple dwellings" having a "townhouse" component to comply with their respective by-law requirements. For example, an apartment building with an identifiable "townhouse" element would have the density controlled as follows:

- "Townhouses" would have to provide a minimum 230 m² area per unit;
- "Multiple Dwelling" would have the g.f.a. calculated on basis of total lot area minus required lot are for townhouses times the g.f.a. ratio.

This could be facilitated by amending the respective "Floor Area Ratio" requirements as follows:

No building or structure in an "E" District shall have a gross floor area greater than the area within the district of the lot on which it is situated, multiplied by the floor area ratio factor of 1.7. Except, that where a multiple dwelling has a townhouse component the "Intensity of Use" requirements for the townhouse dwelling shall be calculated separately, and the gross floor area for the remainder of the multiple dwelling shall be adjusted.

COMMENT

The foregoing alternative actions have been reviewed with the Building Department. **It is generally agreed that there is no sure way to effectively block the loop-holes respecting the development of "townhousing" type development under the guise of a "multiple dwelling".** However, the implementation of the following actions should assist in more closely adhering to the intent of the By-law:

- amend definition of "townhouse dwelling" to delete the phrase "...not more than eight single-family dwelling units but...";
- amend the "RT-10" (Townhouse) District, "RT-20" (Townhouse - Maisonette) District and "RT-30" (Street-Townhouse) District by introducing a design provision respecting "Dwelling Unit Placement" (e.g. max. 8 in a row);
- that the appropriate zoning districts be amended to introduce a new By-law regulation requiring "multiple dwellings" with a "townhouse" component to comply with the respective regulations for "gross floor area" (multiple dwelling) and "intensity of use" (townhouse dwellings).

Given the similarities between the definitions of "townhouse dwelling" and "maisonette dwelling", the by-law provisions respecting "maisonette dwellings" should be appropriately changed.

CONCLUSION

Zoning By-law No. 6593 should be appropriately amended to incorporate the foregoing changes.

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THE CORPORATION OF THE CITY OF HAMILTON
OFFICE OF THE CITY CLERK

1990 March 12th

GOVERNMENT DOCUMENTS

Mr. E. W. Kowalski, Director of Community Development
Mr. S. Ghanem, Director of Economic Development
Mr. T. Gill, Acting Engineering Commissioner
Attention: Mr. K. Brenner
Mr. M. Main, Director of Traffic Services
Mr. R. Karl, Traffic Department
Ms. Diana Pasko, Planning Department
Mr. E.G. Beres, Regional Assessment Commissioner
Urban Municipal Librarian, Central Library

Attached herewith are the minutes of the Planning and Development Committee meeting held Wednesday, 1990 February 7th.

These minutes were approved by the Committee at its meeting held Wednesday, 1990 March 7th.

Yours very truly,

Mrs. Susan K. Reeder, Secretary
Planning and Development Committee

SKR:mc
Attch.

c.c.'s - Manager, C.M.H.C.
- Hamilton & District Chamber of Commerce
Attention: Kathy Drewitt
- Mr. V. Mauceri, Manager, Research Dept., H.S.R.
- Mr. Paul E. Shewfelt, Board of Education
- Mr. T. Cupido, Superintendent of Plant,
Hamilton Separate School Board
- Mr. M. D. Crowley, Southam Communications Ltd.
- Mr. D. Miller, Canada Life, London, Ontario
- Mr. P. Hill, Durand Neighbourhood, c/o Ruth Morrison
- Mr. Rob Hager, Research Statistician, Oshawa Foods

Wednesday, 1990 February 7
9:00 o'clock a.m.
Room 233, City Hall

The Planning and Development Committee met.

There were present: Alderman J. Smith, Chairman
Alderman F. Lombardo, Vice-Chairman
Alderman D. Christopherson
Alderman W. McCulloch
Alderman D. Ross
Alderman M. Kiss
Alderman D. Drury

Regrets: Mayor Robert M. Morrow - Civic Business
Alderman H. Merling - Vacation

Also present: Mr. A. Georgieff, Director of Local Planning
Mr. R. Karl, Traffic Department
Mr. J. Sakala, Planning Department
Mr. W. Wong, Building Department
Mr. M. Watson, Real Estate Division, Property Department
Mr. D. Pickard, Building Department
Mr. K. Brenner, Regional Engineering Department
Mrs. N. Chapple, Architectural Historian, L.A.C.A.C., Planning Department
Mr. D. Godley, Planning Department
Mrs. C. Lee-Morrison, Planning Department
Mr. J. Lakatos, Planning Department
Mrs. L. Lawrence, City Solicitor's Office
Mr. P. Mallard, Planning Department
Mr. C. Unelli, Regional Engineering Department
Mrs. Susan K. Reeder, Secretary

The Committee was in receipt of a report from the Building Commissioner dated 1990 January 31, respecting Demolition Permit Applications.

Demolition Permit Applications.

The Committee approved the following:

That the Building Commissioner be authorized to issue demolition permits for the following properties:

- (a) 1019 Scenic Drive
- (b) 68 Royal Avenue

The Committee was in receipt of a report from the Building Commissioner dated 1990 January 23, respecting Fees for Applications to the Committee of Adjustment.

Fees for Applications to the Committee of Adjustment.

The Committee approved the following:

That By-law No. 87-350 prescribing a tariff of fees in relation to anticipated administrative costs be appropriately amended to reflect a fee increase from the present \$180. to \$250. for applications to the Committee of Adjustment effective 1990 April 2.

The Committee was in receipt of Private and Confidential Reports from the Director of Community Development respecting Ontario Home Renewal Programmes and Registration of Loans on the Tax Rolls.

Ontario Home Renewal Programmes and Registration of Loans on the Tax Rolls.

The Committee approved that the properties in default of payment of their loan under the Ontario Home Renewal Programme should be placed on the Tax Rolls.

Budget and Schedule
of Payments -
- Concession Street
Business Improvement
Area.

The Planning and Development Committee -2- Wednesday, 1990 February 7

The Committee was in receipt of a report from the Director of Community Development dated 1990 January 31, respecting Budget and Schedule of Payments for the Concession Street Business Improvement Area.

The Committee approved the following:

- (a) That, the 1990 operating budget of the Concession Street B.I.A., as shown on the attached marked as Appendix "A", be approved in the amount of twenty-six thousand, sixty dollars (\$26,060.);
- (b) That, the City Solicitor be authorized and directed to prepare the requisite By-law pursuant to Section 217, the Municipal Act, R.S.O., 1980, to levy the 1990 Budget as referenced in (a) above; and,
- (c) That, the schedule of payments for 1990 be as follows:

March 01	\$6,000.
April 01	4,000.
June 01	6,000.
August 01	4,500.
October 01	5,560.

NOTE: 1989 Levy Arrears will be deducted from the first payment for 1990.

- Downtown
Promenade Business
Improvement Area.

The Committee was in receipt of a report from the Director of Community Development dated 1990 January 31, respecting Proposed Budget and Schedule of Payments for the Downtown Promenade Business Improvement Area.

The Committee approved the following:

- (a) That, the 1990 operating budget of the Downtown Promenade B.I.A., as shown on the attached marked as Appendix "B", be approved in the amount of one hundred and ninety-nine thousand, nine hundred and eighty dollars (\$199,980.);
- (b) That, the City Solicitor be authorized and directed to prepare the requisite By-law pursuant to Section 217, the Municipal Act, R.S.O. 1980, to levy the 1990 Budget as referenced in (a) above; and,
- (c) That, the schedule of payments for 1990 be as follows:

January 01	\$23,980.	February 01	\$16,000.
March 01	16,000	April 01	16,000.
May 01	16,000.	June 01	16,000.
July 01	16,000.	August 01	16,000.
September 01	16,000.	October 01	16,000.
November 01	16,000.	December 01	16,000.

NOTE: 1989 Levy Arrears will be deducted from the first payment for 1990.

- Jamesville Business
Improvement Area.

The Committee was in receipt of a report from the Director of Community Development dated 1990 January 31, respecting Proposed Budget and Schedule of Payments for the Jamesville Business Improvement Area.

The Committee approved the following:

- (a) That, the 1990 operating budget of the Jamesville B.I.A., as shown on the attached marked as Appendix "C", be approved in the amount of thirty-five thousand, four hundred and fifty dollars (\$35,450.);
- (b) That, the City Solicitor be authorized and directed to prepare the requisite By-law pursuant to Section 217, the Municipal Act, R.S.O. 1980, to levy the 1990 Budget as referenced in (a) above; and

The Planning and Development Committee -3- Wednesday, 1990 February 7

(c) That, the schedule of payments for 1990 be as follows:

February 01	\$15,450.
May 01	10,000.
August 01	10,000.

NOTE: 1989 Levy Arrears will be deducted from the first payment for 1990.

The Committee was in receipt of a report from the Director of Community Development dated 1990 January 31, respecting Proposed Budget and Schedule of Payments for the Westdale Village Business Improvement Area.

- Westdale Village
Business Improvement
Area.

The Committee approved the following:

- (a) That, the 1990 operating budget of the Westdale Village B.I.A., as shown on the attached marked as Appendix "D", be approved in the amount of twenty-five thousand dollars (\$25,000.);
- (b) That, the City Solicitor be authorized and directed to prepare the requisite By-law pursuant to Section 217, the Municipal Act, R.S.O., 1980, to levy the 1990 Budget as referenced in (a) above; and,
- (c) That, the schedule of payments for 1990 be as follows:

February 01	\$ 6,250.
April 01	6,250.
June 01	6,250.
October 01	6,250.

NOTE: 1989 Levy Arrears will be deducted from the first payment for 1990.

The Committee was in receipt of a report from the Director of Community Development dated 1990 January 31, respecting Proposed Budget and Schedule of Payments for International Village Business Improvement Area.

- International
Village Business
Improvement Area.

The Committee approved the following:

- (a) That, the 1990 operating budget of the International Village B.I.A., as shown on the attached marked as Appendix "E", be approved in the amount of sixty-five thousand dollars (\$65,000.);
- (b) That, the City Solicitor be authorized and directed to prepare the requisite By-law pursuant to Section 217, the Municipal Act, R.S.O. 1980, to levy the 1990 Budget as referenced in (a) above; and,
- (c) That, the schedule of payments for 1990 be as follows:

February 01	\$25,000.
May 01	20,000.
July 01	20,000.

NOTE: 1989 Levy Arrears will be deducted from the first payment for 1990.

The Committee was in receipt of a report from the Director of Community Development dated 1990 January 31, respecting Proposed Budget and Schedule of Payments for the Ottawa Street Business Improvement Area.

- Ottawa Street
Business Improvement
Area.

Alderman D. Ross declared a Conflict of Interest on this Item as his wife is a Business owner on Ottawa Street.

The Committee then approved the following:

The Planning and Development Committee -4- Wednesday, 1990 February 7

- (a) That, the 1990 operating budget of the Ottawa Street B.I.A., as shown on the attached marked as Appendix "F", be approved in the amount of eighty-five thousand dollars (\$85,000.);
- (b) That, the City Solicitor be authorized and directed to prepare the requisite By-law pursuant to Section 217, the Municipal Act, R.S.O., 1980, to levy the 1990 Budget as referenced in (a) above; and
- (c) That, the schedule of payments for 1990 be as follows:

March 01	\$42,500.
June 01	21,250.
September 01	21,250.

NOTE: 1989 Levy Arrears will be deducted from the first payment for 1990.

- Barton General
Business Improvement
Area.

The Committee was in receipt of a report from the Director of Community Development dated 1990 January 31, respecting Proposed Budget and Schedule of Payments for the Barton General Business Improvement Area.

The Committee approved the following:

- (a) That, the 1990 operating budget of the Barton General B.I.A., as shown on the attached marked as Appendix "G", be approved in the amount of six thousand dollars (\$6,000.);
- (b) That, the City Solicitor be authorized and directed to prepare the requisite By-law pursuant to Section 217, the Municipal Act, R.S.O., 1980, to levy the 1990 Budget as referenced in (a) above; and
- (c) That, the schedule of payments for 1990 be as follows:

April 01	\$ 2,000.
July 01	2,000.
October 01	2,000.

NOTE: 1989 Levy Arrears will be deducted from the first payment for 1990.

Revised Board of
Management
- Ottawa Street
Business Improvement
Area.

The Committee was in receipt of a report from the Director of Community Development dated 1990 January 25, respecting the Revised Board of Management for the Ottawa Street Business Improvement Area.

Alderman Ross declared a Conflict of Interest in this matter as his wife is being appointed on the Board of Directors for the Ottawa Street B.I.A.

The Committee approved the following:

- (a) That, By-law No. 87-147 appointing the Ottawa Street B.I.A. Board of Management, be amended to delete the following names:

C. Mirabella	Encore T.V. and Video
--------------	-----------------------

and add the following:

J. Driscoll	Price Busters Discount
L. Ross	Maggie's Ladies Wear

- (b) That, the City Solicitor be authorized and directed to amend By-law 87-147 pursuant to (a) above.

- Westdale Village
Business Improvement
Area.

The Committee was in receipt of a report from the Director of Community Development dated 1990 January 23, respecting the Board of Management for the Westdale Village Business Improvement Area.

The Planning and Development Committee -5- Wednesday, 1990 February 7

The Committee approved the following:

- (a) That, By-law No. 87-147 appointing the Westdale Village B.I.A. Board of Management be amended to delete the following names:

M. Kane	Mary Ann's Gifts
D. Hurley	D. H. Fashions
J. Jennings	Five Seasons Travel

and add the following:

Y. Bernert	Woodland Leathers
D. Miklos Jr.	The Village F-Stop
S. McConnell	Boudoir Keepsakes of Westdale
B. Basadur	Cottonwood

- (b) That, the City Solicitor be authorized and directed to amend By-law No. 87-147 pursuant to (a) above.

The Committee was in receipt of a report from the Director of Community Development dated 1990 January 31, respecting the Board of Management for the Jamesville Business Improvement Area.

- Jamesville
Business Improvement
Area.

The Committee approved the following:

- (a) That, By-law No. 87-147 appointing the Jamesville B.I.A. Board of Management be amended to delete the following names:

D. Fraser
T. Monagimzada

and add the following:

G. Lipari
R. Corsini
R. Burridge

- (b) That, the City Solicitor be authorized and directed to amend By-law No. 87-147 pursuant to (a) above.

The Committee was in receipt of a report from the Director of Property dated 1990 January 29, respecting Authorization to Include Additional Partners on the City's Sale to Mercanti Management Inc., Parts 2 & 3, Plan 62R-10547 - Upper Ottawa Street.

Authorization to
include Additional
Partners on City
Sale - Upper
Ottawa Street.

The Committee approved the following:

That Section 8 of the 17th Report of the Planning and Development Committee as approved by City Council on 1989 July 25, be amended as follows:

- (a) The City's Offer to Purchase agreement dated 1989 June 20th, be amended by expanding the number of Purchasers from Mercanti Management Inc. to include Peter Mercanti, Morris Mercanti, Moore & Davis Enterprises Inc. and Arthur Glenn Bryant each as to 20% undivided interest as tenants in common.

The Committee was in receipt of a report from the Director of Property dated 1990 January 29, respecting Authorization to Allow the Transfer of Title to include Additional Partners in the City's Sale to Messrs. Sam, Peter and Morris Mercanti - Anchor Road - Parts 3 & 4, Plan 62R-5200.

- Anchor Road.

The Committee approved the following:

That Section 12 of the 16th Report of the Planning and Development Committee, as approved by City Council on 1988 July 26, be amended as follows:

The Planning and Development Committee -6- Wednesday, 1990 February 7

- (a) That approval be granted to allow the transfer of title in the City's deed 9495 from Sam, Peter and Morris Mercanti to Samuel, Peter, Morris Mercanti, Moore & Davis Enterprises Inc. and Arthur Glenn Bryant each as to as a 20% undivided interest, as tenants in common;
- (b) That the Purchasers' solicitor must prepare all necessary agreements and deed subject to the approval of the City Solicitor.
- (c) That any costs incurred by the City in this regard will be borne by the Purchasers.

Land Exchange -
City of Hamilton
& Starward Homes.

The Committee was in receipt of a report from the Director of Property dated 1990 January 29, respecting Land Exchange - City of Hamilton and Starward Homes Limited, Application for Inclusion in Land Titles, Part 1, 62R-10500.

The Committee approved the following:

- (a) That Starward Homes Limited be authorized to make an application to have the City owned lands described as Part 1, Plan 62R-10500 placed under the Land Titles System; and,
- (b) That the Mayor and the City Clerk be authorized and directed to execute the documentation prepared by Starward Homes Limited, provided that the content and form of same is satisfactory to the City Solicitor.

NOTE: Starward Homes Limited was given approval to include the subject City owned parcel, Block 1, with other Starward lands in Zoning Application 89-15 and Subdivision Application 88-05, pursuant to City Council's 1989 May 30th adoption of Section 9 of the 14th Report for 1989 of the Planning and Development Committee.

Cash Payment in
lieu of 5% Parkland
Dedication
- "Wentwal Estates".

The Committee was in receipt of a report from the Acting Commissioner of Engineering dated 1990 January 17, respecting Cash Payment In Lieu of 5% Parkland Dedication for "Wentwal Estates".

The Committee approved the following:

- (a) That Section 5 of the 26th Report of the Planning and Development Committee Report, as approved by City Council on 1989 November 14, be rescinded.
- (b) That the City of Hamilton accept the sum of \$66,900. as cash payment in lieu of 5% dedication in connection with "Wentwal Estates", Hamilton, this being the cash requirement under Section 50 of the Planning Act.

NOTE: This revised figure has been calculated as a result of the addition of Block 40 to the Subdivision.

These lands are located west of Upper Wentworth Street and north of Rymal Road in the Barnstown Neighbourhood, Hamilton.

Site Plan Control
Application DA89-74
- 1033 Main St. W.
(Columbia Secondary
School of Canada).

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 29, respecting Site Plan Control Application DA-89-74, for property at 1033 Main Street West (Columbia Secondary School of Canada).

The Committee approved the following:

That approval be given to Site Plan Control Application DA-89-74, by Columbia Secondary School of Canada, owners of lands known as 1033 Main Street West for a five (5) storey student residence subject to the following:

The Planning and Development Committee -7- Wednesday, 1990 February 7

- (a) Modification to the plan in relation to notes, dimension and parking layout as marked in red on the plans;
- (b) Submission of a revised grading plan to the satisfaction of the Commissioner of the Hamilton-Wentworth Engineering Department;
- (c) Submission of a revised landscape plan to the satisfaction of the Director of Local Planning, Planning and Development Department;
- (d) Finalization of By-law 89-220; and,
- (e) Incorporation of comments from Ontario Hydro regarding the noise abatement report and, grading of the subject land adjacent to the Ontario Hydro property.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 23, respecting Request to Discharge the Modified Subdivision Agreement for the Shopping Centre located at 530-550 Fennell Avenue East.

Request to Discharge
the Modified
Subdivision
Agreement - 530-550
Fennell Avenue East.

The Committee approved the following:

That approval be given to a request by Bassel, Sullivan and Leake, Solicitors for the owner of the property at 530-550 Fennell Avenue East, to discharge a modified subdivision agreement, registered on 1957 December 31, as Instrument No. 34335 HL and that the City Solicitor proceed accordingly.

NOTE: The modified subdivision agreement which was registered on 1957 December 31, has become outdated and does not recognize various alterations of the site which have subsequently been processed and controlled by the Site Plan Control procedure and By-laws No. 87-150, No. 87-223 and No. 79-276.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 29, respecting Site Plan Control By-laws to include the lands located on the north and south sides of Main Street West between Highway No. 403 and Queen Street South.

Site Plan Control
By-laws to include
lands on the north
and south sides of
Main Street West,
between Hwy.#403 and
Queen Street South.

The Committee approved the following:

That Site Plan Control By-laws No. 87-223 and No. 79-275, be amended to include the lands located on the north and south sides of Main Street West between Highway No. 403 and Queen Street South as outlined in the map attached hereto and marked as Appendix "H", and that the City Solicitor be directed to proceed with such action.

NOTE: The purposes of the By-law is to include the lands under Site Plan Control. Any development proposed along the Main Street corridor in this area would be required to submit various plans for approval. This action was a recommendation of the report entitled "City Entrance - Main Street West" which was accepted by City Council at its meeting of 1989 November 14.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 29, respecting C.A.P.I.C.'s Recommendations on the Proposed Perimeter Road Project.

C.A.P.I.C.
recommendations -
Proposed Perimeter
Road Project.

Alderman Christopherson spoke to this report and it was then moved by Alderman Christopherson, seconded by Alderman McCulloch and carried that the Planning and Development Committee advise Council that they endorse C.A.P.I.C.'s recommendation to undertake a Transportation Study.

The Committee then approved the following recommendation:

The Planning and Development Committee -8- Wednesday, 1990 February 7

- (a) That the recommendations of the Central Area Plan Implementation Committee, in their report dated 1990 January 22nd, respecting a Regional Transportation Study and the proposed Perimeter Road be forwarded to Regional Council for consideration.
- (b) That the City Clerk advise Regional Council that the Planning and Development Committee endorses C.A.P.I.C.'s recommendation on the need for a comprehensive Transportation Study to be undertaken.

C.A.P.I.C.
Appointment -
Alderman W.
McCulloch.

Alderman McCulloch spoke to the Committee and advised that he wishes to serve on the C.A.P.I.C. Committee, but that he will not be serving on the Executive Committee. It was then moved by Alderman Ross, seconded by Alderman Christopherson and carried to approve the following:

That Alderman W. McCulloch be appointed to serve on the Central Area Plan Implementation Committee.

Request for a waiver
from the require-
ments of a
Feasibility Study
and Impact Analysis
-lands west of Nash
Road, and north of
the C.N.R.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 29, respecting a Request for a Waiver from the Requirements of a Feasibility Study and Impact Analysis for City owned lands located west of Nash Road, and north of the C.N.R.

The Committee approved the following:

- (a) That the request for a waiver from the requirements of a Feasibility Study and Impact Analysis for lands located west of Nash Road, north of the C.N.R. be granted;
- (b) That the City Clerk be directed to inform the Council of the Regional Municipality of Hamilton-Wentworth regarding (a) above, and request that Regional concurrence be obtained; and,
- (c) That Site Plan Control By-law No. 79-275, as amended by By-law No. 87-223, be amended by including the subject lands.

NOTE: The Planning and Development Department has recently received a request for a waiver from the requirements of a Feasibility Study and Impact Analysis (Environmental Impact Statement) from the Regional Freeway Project Office, for City owned lands located west of Nash Road, north of the C.N.R., as shown on the attached map marked as Appendix "I". The Official Plan requires an Environmental Impact Statement for development proposals within Environmentally Sensitive Areas, or if requested, Council may grant a waiver, with the concurrence of Regional Council.

Proposed Demolition
- 114 Main St. W.

The Committee was in receipt of a report from the Secretary of the Local Architectural Conservation Advisory Committee dated 1990 January 31, respecting Proposed Demolition for property at 114 Main Street West.

The Committee received the following recommendation:

That the proposed demolition of the Dodsworth & Brown Funeral Home at 114 Main Street West not be opposed.

Feasibility Study -
St. Mark's Anglican
Church, 130 Bay
Street South.

The Committee was in receipt of a report from the Secretary of the Local Architectural Conservation Advisory Committee dated 1990 January 31, respecting Feasibility Study - St. Mark's Anglican Church, 130 Bay Street South.

The Committee agreed that the following resolution should be referred to the Director of Culture and Recreation.

That as part of the City's investigation into the possible restoration and re-use of St. Mark's Anglican Church located at 130 Bay Street South, the use of a feasibility study as per the attached procedures, be recommended.

The Planning and Development Committee -9- Wednesday, 1990 February 7

The Committee was in receipt of a report from the Secretary of the Local Architectural Conservation Advisory Committee dated 1990 January 31, respecting Custom House - National Historic Sites and Monuments Board Plaque.

Custom House -
National Historic
Sites and a
Monuments Board
Plaque.

The Committee approved the following:

That City Council approve the resolution, as shown on the attached Appendix "J", to support a request for the property located at 51 Stuart Street, Hamilton, from the owner, Don Warrener, for a National Historic Sites and Monuments Board plaque.

NOTE: LACAC, at its last meeting held in 1989 November, passed a recommendation to support Don Warrener's request for such a plaque.

The Committee was in receipt of a report from the Secretary of the Local Architectural Conservation Advisory Committee dated 1990 January 31, respecting the Preparation of a Sale Agreement for the Pigott Lobby windows.

Preparation of a
Sale Agreement
for the Pigott
Lobby windows.

The Committee approved the following:

That the City Solicitor be requested to prepare an agreement of sale between the City and Reemark, the owners of the Pigott-Sun Life buildings, for the Pigott Lobby stained glass windows, contingent on the following conditions:

- (a) That the heritage easement between the Ontario Heritage Foundation and Reemark, the property owners, be in place;
- (b) That the sale price of the stained glass windows is equivalent to their replacement value;
- (c) That the windows will be adequately protected against theft or vandalism, when in place, in accordance with accepted conservation standards;
- (c) That the windows will be insured for their replacement value by the property owners insurance policy, by means of a special rider;
- (e) That, if the windows are to be removed at any time in the future, the City of Hamilton retains the right of first refusal;
- (f) That the agreement of sale be registered on title; and
- (g) That the Heritage Hamilton Foundation be re-imbursed for their contribution (\$3,240.) for the purchase of these windows, and that the remaining monies from the sale be returned to the City (Reserve Fund for the Acquisition of Historic Properties).

The Committee was in receipt of a report from the Secretary of the Local Architectural Conservation Advisory Committee dated 1990 January 30, respecting Durand South (Markland St. area) - Heritage Conservation District Study.

Durand South
(Markland
Street area) -
Heritage
Conservation
District Study.

The Committee approved the following:

- (a) That the Planning Department be requested to consider including the Durand South (Markland St. area) Heritage District Study in the 1990 Work Programme;
- (b) That upon endorsement of the proposed District Study in the 1990 Work Programme that:

The Planning and Development Committee -10- Wednesday, 1990 February 7

- (i) Staff be directed to make a grant application to the Ministry of Culture and Communications for Heritage District Study funding; and
- (ii) Subject to the grant funding from the Ministry of Culture and Communications, the Study proceed and that the Solicitor's Department be directed to prepare a By-law defining the Markland St. area as an area to be examined for future designation as a heritage conservation district.

NOTE: On 1990 January 12, the Planning Department received a Petition with 26 signatures of homeowners in the Durand South Neighbourhood requesting investigation on the possibility of becoming a Heritage District.

Zoning Applications.

ZA 89-107 -
rear of 1265 and
1269 Upper James
Street.

At this point, the Committee met to deliberate on Zoning Applications.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 30, respecting Zoning Application 89-107, for property at the rear of 1265 and 1269 Upper James Street.

The Committee approved the following:

That approval be given to Zoning Application 89-107, Effort Trust Company, owner, requesting a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District, to permit single-family residential development on property located at the rear of 1265 and 1269 Upper James Street, as shown on the attached map marked as Appendix "K", on the following basis:

- (a) That the subject lands be rezoned from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District;
- (b) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-9C for presentation to City Council; and,
- (c) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

NOTE: The purpose of the By-law is to provide for a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District for property located at the rear of 1265 and 1269 Upper James Street.

The effect of the By-law is to permit single-family residential development.

ZA89-120 - rear of
641 Limeridge Road
East.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 29, respecting Zoning Application 89-120, for property at the rear of 641 Limeridge Road East.

The Committee approved the following:

That approval be given to Zoning Application 89-120, Anna Filazzola, owner, requesting a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District, for property located at the rear of 641 Limeridge Road East, as shown on the attached plan marked as Appendix "L", on the following basis:

- (a) That the subject lands be rezoned from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District;

- (b) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-27A for presentation to City Council; and,
- (c) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

NOTE: The purpose of the By-law is to establish a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District for property located at the rear of 641 Limeridge Road East.

The effect of the By-law is to permit the rear portion of the property to be developed in conjunction with adjoining lands to create a building lot for a single-family dwelling fronting onto Parkwood Crescent.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 30, respecting Zoning Application 89-115, for property at 18 West Avenue South.

ZA89-115 -
18 West Avenue
South.

Report of the circularization was given as follows:

869 notices sent	33 in favour	10 opposed
------------------	--------------	------------

Mr. Gerry Campbell, Proprietor, Canadian Tire, 304 Main Street East spoke to the Committee with respect to their concerns at the parking impact that this project may have on their store. Mr. Campbell also submitted a letter to the Secretary dated 1990 February 6, respecting his concerns.

The applicant for the development spoke to the Committee with respect to parking and his application.

The Committee then approved the following recommendation:

- (a) That approval be given to Zoning Application 89-115, LIUNA Local 837 Health and Welfare Plan, owner, requesting a modification to the "E" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations, to permit the conversion of the existing building for a dental office and vision ware dispensary for union members on the first floor, and offices on the second floor, for the property located at 18 West Avenue South, as shown on the attached map marked as Appendix "M", on the following basis:
 - (i) That the "E" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations as contained in Section 11 of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following variances as special requirements:
 - (1.) That notwithstanding Section 11(1), the following uses shall be permitted:
 - (a) Commercial uses only within the existing building:
 - (i) A dental office;
 - (ii) Business and professional Offices (excluding all medical offices except a dental office permitted in clause (a) above; and,
 - (iii) An optician's establishment.

(b) Accessory Use:

- (i) One ground sign, wall sign or projection sign having an area of not more than $0.4m^2$ non-illuminated or illuminated by non-flashing, indirect or interior means only, located at least 1.5m from the nearest street line in connection with the commercial use.
 - (ii) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1161, and that the subject lands on Zoning District Maps E-13 and E-14 be notated S-1161;
 - (iii) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Maps E-13 and E-14 for presentation to City Council;
 - (iv) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area;
 - (v) That the Stinson Neighbourhood Plan be amended by redesignating the subject lands from "Medium Density Apartments" to "Commercial".
- (b) That the amending by-law not be forwarded for passage by City Council until such time as a site plan has been approved by the Planning and Development Committee.

NOTE: The purpose of the by-law is to provide for a modification to the "E" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations for the property located at 18 West Avenue South.

The effect of the by-law is to permit the following uses:

(i) Commercial within the existing building only:

- (1.) A dental office;
- (2.) Business and professional offices (excluding medical offices with the exception of a dental office); and,
- (3.) An opticians establishment.

(ii) Accessory:

- (1.) One ground, wall, or projection sign not greater than $0.4m^2$ in area, non-illuminated or illuminated by non-flashing, indirect or interior means only and no closer than 1.5m to the nearest street line.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 29, respecting Zoning Application 89-125, for properties at 63 and 67 Malton Drive.

Report of the circularization was given as follows:

58 notices sent 9 in favour 3 opposed

Mr. Richardson, owner of the property at 63 Malton Drive, co-applicant spoke on why this application should be approved. He indicated that sewers have been installed along Christie and the owners have hooked up their own houses and their rear properties in the hope of future development of their rear lands. He questioned where the denial recommendation for their application leaves them now.

Mr. Stockton, owner of property at 67 Malton Drive and a co-applicant for the Zoning Application spoke to the Committee on the need to have this application approved. He advised that they no longer need a large lot and that they feel that many of their neighbourhood homes would be quite willing to separate their large lots as well.

The Planning and Development Committee -13- Wednesday, 1990 February 7

Discussion ensued on this matter and Alderman Ross requested that this matter be tabled and that a Public meeting be called of the owners of property in the neighbourhood to discuss the possibilities of development in this area.

Accordingly, the Planning and Development Committee tabled this application in order that a Public meeting could be held.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 January 30, respecting an amended Zoning Application 89-101, for property at 1334, 1340, 1342, and 1348 Upper Sherman Avenue.

ZA89-101 -
1334, 1340, 1342,
1348 Upper Sherman
Avenue.

The Committee was in receipt of a Letter of Submission from Mr. and Mrs. D. DiPasquale, 20 Ruby Street.

The Committee was also in receipt of a Submission from Mr. John A. Parente, Solicitor for the applicant requesting that this application be tabled.

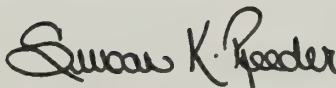
The Committee was also in receipt of a Letter from Alderman J. Gallagher, Ward 7, requesting that this application be tabled.

The Committee then agreed that this application be tabled.

There being no further business, the meeting then adjourned.

Adjournment.

Taken as read and approved,



Susan K. Reeder
Secretary
1990 February 7

ALDERMAN J. SMITH, CHAIRMAN
PLANNING AND DEVELOPMENT COMMITTEE

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1990 March 15th

NOTICE OF MEETING

Planning and Development Committee
Wednesday, 1990 March 21st
9:00 o'clock a.m.
Room 233, City Hall

URBAN MUNICIPAL

GOVERNMENT DOCUMENTS

Susan K. Reeder

Susan K. Reeder
Secretary

SKR:dbm

**ZONING APPLICATIONS WILL BE HEARD
IN THE COUNCIL CHAMBERS AT 10:30 O'CLOCK A.M.**

A G E N D A

1. Minutes of the meeting held Wednesday, 1990 February 21st.

BUILDING COMMISSIONER

2. Demolition Permit Applications.

CASH-IN-LIEU OF PARKING COMMITTEE

3. 96 George Street.

ACTING COMMISSIONER OF ENGINEERING

4. Conveyance of land for park dedication - "The Gardens of Rymal" Subdivision.

Wednesday, 1990 February 21
9:00 o'clock a.m.
Room 233, City Hall

The Planning and Development Committee met.

There were present: Alderman J. Smith, Chairman
Alderman F. Lombardo, Vice-Chairman
Mayor Robert M. Morrow
Alderman M. Kiss
Alderman D. Christopherson
Alderman D. Ross
Alderman H. Merling
Alderman D. Drury

Regrets: Alderman W. McCulloch - Vacation

Also present: Alderman B. Hinkley
Mr. L. Sage, Chief Administrative Officer
Mr. J. Thoms, Commissioner of Planning and Development
Mr. A. Georgieff, Director of Local Planning
Mr. J. Swartz, Regional Planning Department
Mr. P. Lampman, Building Department
Mr. M. Watson, Real Estate Division, Property Department
Mr. B. Allick, Building Department
Mr. J. Robinson, Community Development Department
Mrs. N. Chapple, Architectural Historian, L.A.C.A.C., Planning Department
Mr. K. Brenner, Regional Engineering Department
Mr. R. Karl, Traffic Department
Ms. L. Lawrence, City Solicitor's Department
Mr. P. Mallard, Planning Department
Mr. E. Matthews, City Treasurer
Mr. W. Wong, Building Department
Mr. N. Adhya, Treasury Department
Mr. P. Fisher, Secretary, Committee of Adjustment
Mr. L. Harvey, Building Department
Mr. Russ Ferguson, Planning Department
Mrs. Susan K. Reeder, Secretary

The Committee was in receipt of the minutes of their meeting held Wednesday, 1990 January 3 and Wednesday, 1990 January 24 and approved these minutes.

The Committee was in receipt of a report from the Building Commissioner dated 1990 February 14, respecting Demolition Permit Applications.

The Committee approved the following:

That the Building Commissioner be authorized to issue demolition permits for the following properties:

- (a) 1500 Upper Ottawa
- (b) 1514 Upper Ottawa
- (c) 1522 Upper Ottawa
- (d) 1489 Upper Gage
- (e) 1491-1495 Upper Gage

The Committee was in receipt of a report from the Director of Community Development dated 1990 January 24, respecting Commercial Improvement Programme and Commercial Facade Loan Programme Selection Criteria.

The Committee approved the following:

Minutes - 1990 January 3,
1990 January 24.

Demolition Permit
Applications.

Commercial Improvement
Programme and Commercial
Facade Loan Programme
Selection Criteria

- (a) That, the Commercial Improvement Programme Selection Criteria, as shown on the attached marked as Appendix "A", be amended to include a stipulation requiring that a B.I.A., to be eligible under the Programme, must have an annual operating budget with levies averaging not less than one hundred dollars (\$100.) per member per year; and,
- (b) That, the Commercial Facade Loan Programme eligibility requirements be amended to stipulate that the member B.I.A. for each application must have an annual budget with average levies of one hundred dollars (\$100.) each per year per member.

Commercial Facade
Loan Programme
Application - 283, 285,
287 King Street East.

The Committee was in receipt of a report from the Director of Community Development dated 1990 February 6, respecting a Commercial Facade Loan Programme Application for property at 283-285-287 King Street East.

The Committee approved the following:

That a repayable loan, in the amount of forty-five thousand dollars (\$45,000.) be approved under the Commercial Facade Loan Programme for 283-285-287 King Street East, Agommen Ltd., c/o A. Ammendolia, M. Nusca, G. Piccini and F. Zanette. The interest rate will be 6-1/2 percent, amortized over 10 years.

Resolution - City of
York - Rental Housing
Protection Act.

The Committee was in receipt of a resolution from the City of York forwarded to them from the Finance & Administration Committee with respect to the Rental Housing Protection Act.

The Committee was also in receipt of comments on this matter from the Director of Community Development in his report dated 1990 January 17.

Following discussion on this matter by the Committee, it was agreed that this item would be tabled in order that representatives from the Tenants Association and other Associations interested in this matter could be invited to a meeting of the Planning and Development Committee, in order to give their comments on this issue. It was also indicated that Mr. John Robinson of the Community Development Department, would work with the Secretary on who should be notified to attend a meeting on this item.

Release of Building
Covenants - 175 Nebo
Road.

The Committee was in receipt of a report from the Director of Property dated 1990 February 6, respecting Release of Building Covenants for property at 175 Nebo Road.

The Committee approved the following:

That the City Solicitor be authorized to prepare a Quit Claim Deed from the City of Hamilton to the present owners, Aiden Tuite, William Pickard, Luigi Centurami and 441138 Ontario Limited, of Lot 38, Plan M-227, 175 Nebo Road to release the property from the construction covenants to the City as contained in Deed Instrument #226207 L.T. Registered 1988 June 15.

Release of Building
Covenants - 15 Goderich
Road.

The Committee was in receipt of a report from the Director of Property dated 1990 February 6, respecting Release of Building Covenants for property at 15 Goderich Road.

The Committee approved the following:

That the City Solicitor be authorized to prepare a Quit Claim Deed for the City of Hamilton to the present owner, R. G. Duffie Contracting Ltd. of 15 Goderich Road, Hamilton, Ontario to release the property from the construction covenants to the City as contained in Deed Instrument #382500 C. D. Registered on 1986 October 8.

Authorization to include
the Industrial Condomin-
ium Clause - City Sale -
Anchor Road.

The Committee was in receipt of a report from the Director of Property dated 1990 February 6, respecting Authorization to Include the Industrial Condominium Clause - City Sale - Anchor Road.

The Committee approved the following:

That Section 12 of the 16th Report for 1988 of the Planning and Development Committee as approved by City Council on 1988 July 26, be further amended as follows:

- (a) That the Offer to Purchase agreement dated 1988 June 17, be amended by adding the following clause:

"Notwithstanding paragraphs 6.3 (1) (2) (3) hereof, should the Transferee decide to construct an industrial condominium, in accordance with municipal, regional, and provincial requirements, the Transferee shall be entitled to enter into Agreements of Purchase and Sale in respect of the units to be contained within such condominium and shall further be entitled to transfer such condominium units to such Purchasers without such sales or transfers being deemed an act or acts of default hereunder".

- (b) That the Purchaser's solicitor must prepare all necessary agreements and deeds subject to the approval of the City Solicitor.

- (c) That any costs incurred by the City in this regard will be borne by the Purchaser.

The Committee was in receipt of a report from the Director of Property dated 1990 February 6, respecting Authorization to Include the Industrial Condominium Clause - City Sale - for property on Upper Ottawa Street.

Authorization to include the Industrial Condominium Clause - City Sale - Upper Ottawa Street.

The Committee approved the following:

That Section 8 of the 17th Report for 1989 of the Planning and Development Committee as approved by City Council on 1989 July 25, be further amended as follows:

- (a) That the Offer to Purchase agreement dated 1989 June 20, be amended by adding the following clause:

"Notwithstanding paragraphs 6.3 (1) (2) (3) hereof, should the Transferee decide to construct an industrial condominium, in accordance with municipal, regional, and provincial requirements, the Transferee shall be entitled to enter into Agreements of Purchase and Sale in respect of the units to be contained within such condominium and shall further be entitled to transfer such condominium units to such Purchasers without such sales or transfers being deemed an act or acts of default hereunder".

- (b) That the Purchaser's solicitor must prepare all necessary agreements and deeds subject to the approval of the City Solicitor.

- (c) That any costs incurred by the City in this regard will be borne by the Purchaser.

The Committee acknowledged that Section 18 of their Agenda was deleted.

Section 18 deleted.

The Committee was in receipt of a report from the City Treasurer dated 1990 February 1, respecting Final Release of Holdback.

Final Release of Holdback - Delta Ready Mix Limited.

The Committee approved the following:

That total holdback in the amount of \$1,814.52 be released to Delta Ready Mix Limited, for the completion of Purchase Order No. 23340, for the Downtown Hamilton Action Plan III B, pending receipt by the Treasury of the standard release forms from the Contractor and City Solicitor's Department.

The effect of the by-law is to recognize the existing two-family dwelling (Block "1"), to permit the development of the remaining lands for single-family dwellings (Block "2"), and to establish uniform zoning across the property at 316 Mount Albion Road (Block "3").

Proposed Draft Plan of
Subdivision 89-29 -
west side of Mount
Albion Road, south of
Kingswood Drive.

The Committee also approved the Proposed Draft Plan of Subdivision:

- (a) That approval be given to Proposed Draft Plan of Subdivision Application SA-89-29, Henry Young, prospective owner, to establish a draft plan of subdivision on the west side of Mount Albion Road south of Kingswood Drive, subject to the following conditions:
- (i) That approval apply to the plan prepared by MacKay, MacKay and Peters Limited, dated 1989 October 30, showing 15 lots, one block (Block "16") for development with adjacent lands and revised to show a 0.3m reserve (Block "17") along the open side of the road allowance.
 - (ii) That the street be dedicated to the City of Hamilton as public highway on the final plan.
 - (iii) That the street be named Glen Forest Drive.
 - (iv) That the final plan conform to the zoning by-law approved under The Planning Act.
 - (v) That such easements as may be required for utility or drainage purposes be granted to the appropriate authority.
 - (vi) That the owner provide the City of Hamilton with a certified list showing the net area and width of each lot and block in the final plan.
 - (vii) That the owner make a cash payment in lieu of the conveyance of 5% of the land included in the final plan to the City of Hamilton for park purposes.
 - (viii) That Block "16" be developed in conjunction with abutting lands.
 - (ix) That the open side of the road allowance be terminated with a 0.3m reserve (Block "17") to be conveyed to the City of Hamilton and be held by the City until required for development of the adjacent lands.
 - (x) That the street align with the existing streets to the north and south.
 - (xi) That the owner shall erect a sign in accordance with Section XI of the subsequent Subdivision Agreement prior to the issuance of a final release by the City of Hamilton.
 - (xii) That the owner agree in writing to satisfy all the requirements, financial and otherwise, of the City of Hamilton.
- (b) That the Subdivision Agreement be entered into by the Corporation of the City of Hamilton and the owner to provide for compliance with the conditions of approval established by the Hamilton-Wentworth Region with respect to this application (SA-89-29), Henry Young, prospective owner, proposed draft plan of subdivision, and that the City execute the agreement when the said conditions have been met and the City's share of the cost of installing municipal services has been approved by City Council.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 February 12, respecting Zoning Application 89-118, for property at 335 Rymal Road East.

ZA89-118 - 335 Rymal Road East.

The Committee was also in receipt of a Submission dated 1990 February 14, from J. Jackson, Urbex Management Limited stating that they have no objection to the above-noted Zoning Application.

The Committee then approved the following:

That approval be given to Zoning Application 89-118, John Bellfontaine, owner, for a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District, for property located at 335 Rymal Road East, as shown on the attached map marked as Appendix "D", on the following basis:

- (a) That the subject lands be rezoned from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District;
- (b) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-18D for presentation to City Council;
- (c) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

NOTE: The purpose of the By-law is to establish a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District for property located at 335 Rymal Road East.

The effect of the By-law is to permit development of the rear part of the subject lands for single-family detached development.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 February 14, respecting Zoning Application 89-121, for property at 1035 Main Street East.

ZA 89-121 - 1035 Main Street East.

The Committee approved the following:

That approval be given to Amended Zoning Application 89-121, Gerald and Alice Mulligan, owners, and Ann Kowalchuk, lessee, for a further modification to the established "E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations, to permit three dwelling units and a gift shop, for property located at 1035 Main Street East, as shown on the attached map marked as Appendix "E", on the following basis:

- (a) That the "E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations as contained in Section 11A of Zoning By-law No. 6593, as amended by By-law No. 81-187, applicable to the subject lands, be modified to include the following variances as special provisions:
 - (i) That notwithstanding Section 11A(1)(iii) of Zoning By-law No. 6593, a gift shop shall also be permitted;
 - (ii) That notwithstanding Section 19(iii) of Zoning By-law No. 6593, the dwelling unit occupying the first floor of the existing building shall have a minimum floor area of 45 m²;
 - (iii) That notwithstanding Section 18A(7) of Zoning By-law No. 6593, each required parking space shall have a minimum width of 2.6 m (8.5 feet);
- (b) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-746a, and the subject lands on Zoning District Maps E-44 and E-45 be notated S-746a;

- (c) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Maps E-44 and E-45 for presentation to City Council; and,
- (d) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

NOTE: The purpose of the proposed By-law is to provide for a further modification to the "E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations for property located at No. 1035 Main Street East.

The effect of the By-law is to permit a gift shop and three dwelling units within the existing building.

In addition, the By-law provides the following as special provisions:

- (a) That each of the required four parking spaces shall have a minimum width of 2.6 m (8.5 feet), whereas the By-law requires 2.7 m (8.85 feet); and
- (b) The first floor dwelling unit shall have a minimum floor area of 45 m² (488 square feet), whereas 65 m² (699 square feet) is required.

ZA89-127 - 1543
and 1549 Rymal Road East
and 1519, 1543 and 1549
Rymal Road East.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 February 14, respecting Zoning Application 89-127, for property at 1543 and 1549 Rymal Road East and 1519, 1543 and 1549 Rymal Road East.

The Committee approved the following:

That approval be given to Zoning Application 89-127, Ferrell Builders Supply, owner, for a modification to the "M-12" (Prestige Industrial) District regulations for Block "1", a modification to the "M-14" (Prestige Industrial) District regulations for Block "2", a further modification to the "M-12" (Prestige Industrial) District regulations for Block "3", and a further modification to the "M-14" (Prestige Industrial) District regulations for Block "4", to permit outside storage of materials in conjunction with the building supply store at 1543 and 1549 Rymal Road East (Blocks "3" and "4"), for property located at 1519, 1543 and 1549 Rymal Road East, shown as Blocks "1", "2", "3" and "4" on the attached map marked as Appendix "F", on the following basis:

- (a) That the "M-12" (Prestige Industrial) District and "M-14" (Prestige Industrial) District regulations, as contained in Sections 17D and 17F of Zoning By-law No. 6593 respectively, applicable to Blocks "1", "2", "3" and "4", be modified to include the following variances as special requirements:
 - (i) That notwithstanding Table 4 as identified in Section 17D(1)(b) and Section 17F(1)(b) of Zoning By-law No. 6593, the following uses shall be permitted to have an ancillary retail sales area not exceeding 25% of the gross floor area of the building:

<u>SIC Identification Number</u>	<u>Commercial Use</u>
5621	Hardware, Wholesale
5622	Plumbing, Heating and Air Conditioning, Equipment and Supplies Wholesale

5631	Lumber, Plywood and Millwork, Wholesale
5632	Paint, Glass and Wallpaper, Wholesale
5639	Other Building Materials, Wholesale

- (ii) That notwithstanding Section 17D(2)(e)1.(i) of Zoning By-law No. 6593, there shall be provided and maintained a landscaped area in the required front yard having a depth of not less than 12.0 m abutting the street line, except for any area used for access driveways.
- (iii) That notwithstanding Sections 17D(2)(h)(4) and 17F(2)(h)(4) of Zoning By-law No. 6593, the total area used for storage outside of a building or structure shall not exceed 62% of the lot area subject to the following requirements:
 - (1.) That the outside storage area shall be used exclusively for building supplies such as, but not limited to, sand, gravel, concrete block, bricks, lumber, and equipment;
 - (2.) That no stockpile of building supplies located in the outside storage area shall exceed a height of 4 metres;
 - (3.) That Section 18(3)(vi) shall not apply to the outside storage area.
- (iv) That notwithstanding Sections 17D(2)(h)(2) and 17F(2)(h)(2) of Zoning By-law 6593 every side yard or rear yard that is used for outside storage of any material or any equipment shall be screened from external view by the erection and maintenance of a chain link fence not less than 1.5 m in height and not more than 3.0 m in height and a landscaped area with a planting strip having a minimum width of 1.2 m along the side and rear lot lines adjacent to the outside storage area shall be required;
- (v) That notwithstanding Section 17D(2)(h)(1) and 17D(2)(h)(2) of Zoning By-law No. 6593, outside storage shall be permitted in the non-required front yard on Block "1" only, provided that it is screened from external view by a chain link fence not less than 1.5 m in height and not more than 3.0 m in height.
- (vi) That Sections 17D(2)(i) and 17F(2)(i) of Zoning By-law No. 6593 shall not apply.
- (b) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1163, and that the subject lands on Zoning District Maps E-69D and E-69E be notated S-1163;
- (c) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Maps E-69D and E-69E for presentation to City Council;
- (d) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area; and,

- (e) That By-law No. 86-59 be repealed in its entirety.

NOTE: The purpose of the proposed By-law is to provide for a modification to the "M-12" (Prestige Industrial) District regulations for Block "1", a modification to the "M-14" (Prestige Industrial) District regulations for Block "2", a further modification to the "M-12" (Prestige Industrial) District regulations for Block "3", and a further modification to the "M-14" (Prestige Industrial) District regulations for Block "4", for property located at 1519, 1543, and 1549 Rymal Road East.

The effect of the By-law is to permit additional outside storage of materials (Blocks "1" and "2") in conjunction with the adjoining building supply store (Blocks "3" and "4"). It also allows for not more than 62% of the lot area to be used for outside storage of materials. Presently, outside storage of materials comprising not more than 5% of the lot area for Blocks "1" and "2", and not more than 55% of the lot area for Blocks "3" and "4" is permitted. Further, the By-law permits the retail sale of lumber and building materials in an area not exceeding 25% of the gross floor area of the building.

In addition, the By-law provides for the following special requirements:

- (a) The outside storage area shall be exclusively used for building supplies, such as sand, gravel, concrete blocks, bricks, lumber, and equipment.
- (b) No stockpile of building supplies shall be higher than 4 m, whereas there is presently no limitation on the maximum height.
- (c) The outside storage area may be located in the required side and rear yards instead of having a minimum setback from the side and rear lot lines.
- (d) The outside storage area shall be screened from external view by providing a 1.5 m to 3.0 m high chain link fence and a 1.2 m wide landscaped area with a planting strip along the side and rear lot lines.
- (e) The outside storage area may be located in the front yard on Block "1" only. A minimum 12.0 m landscaped area abutting Rymal Road is required, and a chain link fence between 1.5 m to 3.0 m in height is also required.
- (f) Outside storage and the erection of an industrial building shall be permitted within 90 m of land used solely for residential purposes.

ZA89-110 - 220
Burlington Street East.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 February 12, respecting Zoning Application 89-110, for property at 220 Burlington Street East.

Report of the circularization was given as follows:

185 notices sent	4 in favour	2 opposed
------------------	-------------	-----------

Mr. Silver, Solicitor for the owner, spoke to the Committee on this application. He advised that he is not representing the Developer who originally built the building. He spoke on the various reasons why this application should be approved and indicated that parking can be accommodated in the rear of the property. Mr. Silver advised that he feels that the building enhances the area as it is the only new building in the area and indicated that all three units are presently occupied.

General discussion then ensued on this matter and it was indicated that this building is a legal duplex, but not a triplex as it is presently being used.

Further discussion then ensued on the chronology from the building's original construction as a single-family house to its present existence as a triplex.

Alderman Christopherson indicated that he will have his Affordable Housing Task Force review this type of occurrence.

The Committee then approved the following DENIAL recommendation:

That Zoning Application 89-110, Dennis Gordon Le Blanc, owner, requesting a modification to the established "D" (Urban Protected Residential - One and Two-Family Dwellings, Townhouses, etc.) District for property located at 220 Burlington Street East, as shown on the attached map marked as Appendix "G", be DENIED for the following reasons:

- (a) It conflicts with the intent of the Official Plan, in that it represents an intrusion of a 3 family dwelling into an area which is predominantly occupied by single-family dwellings;
- (b) It would result in the entire front yard being paved over to accommodate the 4 required parking spaces which would detract from the established residential streetscape of the area south of Burlington Street East, and which is prohibited by the Zoning By-law; and,
- (c) Approval of the application would encourage other similar applications which, if approved, would undermine the intent of the By-law and change the character of the area.

NOTE: Alderman Christopherson and Alderman Smith opposed.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 February 12, respecting Zoning Application 90-01, for property at 1489 to 1495 Upper Gage Avenue.

ZA90-01 - 1489 to
1495 Upper Gage Avenue.

The Committee approved the following:

That approval be given to Zoning Application 90-01, 815488 Ontario Inc. (Nella Bradt), prospective owner, requesting the removal of the 'H' (Holding) symbol provision for property located at 1489 to 1495 Upper Gage Avenue, under Section 35(1) of The Planning Act, and the City Solicitor be directed to prepare a By-law for submission to City Council for property located at 1489 to 1495 Upper Gage Avenue, as shown on the attached map marked as Appendix "H".

NOTE: The purpose of this By-law is to remove the 'H' holding symbol, for the property located at 1489 to 1495 Upper Gage Avenue. The holding provision prohibits the development of the lands until the installation of all such municipal sewers as the City deems necessary. In this regard, municipal sewers are available to service the subject lands.

The effect of the By-law is to permit the development of the subject lands for a 32 unit apartment building in accordance with the "DE-3" (Multiple Dwellings) District. The By-law also allows, as a special provision, a maximum building height of four storeys.

Alderman Ross spoke to the Committee with respect to his concerns on the Subdivision Plans for Park Development and the Abbey Hill Farms area.

Subdivision Plans -
Park Development -
Abbey Hill Farms.

The Committee then agreed that staff should re-enter negotiations and discussions with the developer of these lands, in order to ensure that there is continuity between the original plans for this area and the developer's work and construction of this area.

Current Budget Process.

The Committee was in receipt of an Information Report from the City Treasurer dated 1990 February 21, outlining the Current Budget Process.

The Committee was in receipt of a Presentation by the Building Department through an overhead projection type of venue on the Building Department Statistics.

The Committee was in receipt of a report entitled "1990 Service Reduction Proposals for Review by the Planning and Development Committee".

The Committee was in receipt of a budget package entitled "1990 Estimates of the Planning and Development Committee to be Reviewed 1990 February 21".

The Committee was in receipt of a package entitled "1990 Expansion Service/Programme Package for Review by the Planning and Development Committee".

The Committee was in receipt of a document entitled "City of Hamilton Planning Services Work Programme 1990".

The Committee then discussed the 1990 Current Budget Proposed Expropriations with Respect to the Mandate for the Planning and Development Committee and the Departments responsible to them.

Current 1990 Budget decisions.

Building Department

The following decisions were made:

(a) Building Department

- 1990 Appropriation for Expenditures, deduct \$ 100,000.
- Freeze Travel to 1989 Level, at a deduction of 520.
- Deduct Licence Inspectors Position, at a deduction of 40,020.
- 1990 Revenue Estimates, raised to - 4,000,000.

Note: The 1990 Revenue Estimate as recommended by staff was \$3,755,000.

With respect to the Building Department Budget, the Committee requested that the Building Commission report back to the Committee on how the deductions to the 1990 Appropriation will be made within the Building Department.

Committee of Adjustment

(b) Committee of Adjustment

- 1990 Appropriation for Expenditures approved as recommended by staff at \$ 11,000.
- 1990 Estimate for Revenues should be adjusted to reflect the recent fee increase from \$180. to \$250. per application.

(c) Community Development Department

Community Development
Department

- 1989 Actual should be increased from \$127,521.
to \$157,903.

Note: This increased Actual was provided by the
Community Development Department.

- 1990 Appropriation for Expenditures approved as
per the staff recommendation at 550,980.

Note: The Committee agreed that the possibility of
developing a Housing and Development type of
Department out of the Community Development
Department and other types of Departments
would be reviewed upon the impending retirement
of the Director of Community Development.

- Freeze Travel to 1989 Level,
at a deduction of 350.

(d) Planning

Planning Department

- 1990 Revenue Estimates - Zoning Applications
to be increased from \$105,000 to 119,100.

Note: This increase reflects the recommendation
of the Planning Department, as a result
of fee increases.

- Account No. 56001 - Printing Reports - staff
recommended 1990 Expenditure Expropriation of
\$17,680. to be reduced to 15,000.

- Account No. 56103 - Operating Supplies - staff
1990 Expenditure Expropriation recommendation
of \$22,000. to be reduced to 20,000.

- Account No. 55406 - Consultants - staff
recommendation for 1990 Expenditure
Expropriation of \$10,000. to be reduced to 8,000.

- Account No. 55304 - Exhibits and Displays -
staff recommendation for a 1990 Expenditure
Expropriation of \$1,140. to be reduced to 800.

- A request to convert an existing Planner III
position to a Junior Landscape Architect
position was referred back to the Planning
staff in order that the appropriate
recommendation to the Committee can be made
as opposed to the inclusion of this request
in the Letter of Transmittal.

(e) Mayor's Award Programme

Mayor's Award
Programme

- 1990 Appropriation for Expenditure,
approved as per staff recommendation at 1,200.

(f) Hamilton Housing Company Limited

Hamilton Housing
Company Limited

- Net Deficit for the 1990 Appropriation,
to be reduced by 10,000.

Note: The 1990 Appropriation by staff
was listed as \$24,650., and the
Committee directed that this
deficit be reduced to an amount
of \$14,650.

Adjournment.

There being no further business, the meeting then adjourned.

Taken as read and approved,

ALDERMAN J. SMITH, CHAIRMAN
PLANNING AND DEVELOPMENT COMMITTEE

Susan K. Reeder
Secretary
1990 February 21

FOR ACTION

2.

REPORT TO: Mrs. S. K. Reeder
Secretary, Planning and Development Committee

FROM: Mr. L. King
Building Commissioner

DATE: 1990 March 14
COMM FILE:
DEPT FILE:

SUBJECT:

Demolition

RECOMMENDATION:

That the Building Commissioner be authorized to issue demolition permits for the following properties:

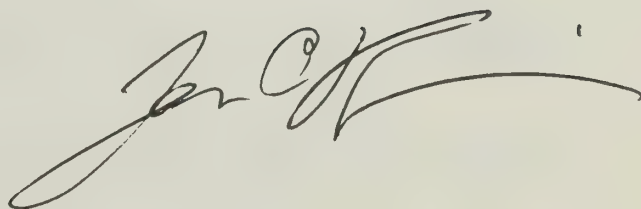
- A) 86 Ward Avenue
- B) 137 Simcoe Street East
- C) 219 Bay Street North
- D) 110 Deschene Avenue

That the Committee table the following application:

- E) 212 Wood Street East

FINANCIAL IMPLICATIONS:

N/A

A large, stylized handwritten signature in dark ink, likely belonging to a city official, is written over the Financial Implications section.

BACKGROUND:

For background information see attached sheets.

B U I L D I N G D E P A R T M E N T

DEMOLITION CONTROL

CATEGORY "A" - PROPOSED USE OF LAND IS PERMITTED IN PRESENT ZONING

DATE: March 14, 1990

ITEM	ADDRESS	PRESENT USE	PROPOSED USE	LOT SIZE	OWNER	ZONE	RECOMMENDATION
A)	86 Ward Avenue	S.F.D.	S.F.D.	25' x 100'	John Zaferis	C/S-720	It is recommended that Committee approve demolition
B)	137 Simcoe St. East	S.F.D.	4 S.F.D.	47.5' x 146'	Vitruntius Development Inc.	D	It is recommended that Committee approve demolition NOTE: Committee of Adjustment has approved for 4 S.F.D. NOTE: Severances required
C)	219 Bay Street North	S.F.D.	2 S.F.D.	56' x 110'	Joe Leite	D	It is recommended that Committee approve demolition NOTE: Committee of Adjustment has approved for 2 S.F.D.
D)	110 Deschene Avenue	S.F.D.	S.F.D.	95' x 133'	Victor Kozel	C	It is recommended that Committee approve demolition
E)	212 Wood Street East	S.F.D.	Two Family Dwelling	45' x 149'	Joe Leite	D	It is recommended that Committee table application pending enforcement proceedings NOTE: Demolished without permit

Len C. King, P. Eng.
Building Commissioner

SP/WKWQD

FOR ACTION

3.

REPORT TO: Susan K. Reeder, Secretary
Planning and Development Committee

FROM: L.C. KING, Chairman
Cash-in-Lieu of Parking Committee

DATE: March 14, 1990
COMM. FILE:
DEPT. FILE: 90.4.2.1.A

SUBJECT:

96 George Street

RECOMMENDATION:

That in accordance with the Cash-in-Lieu of Parking policy, Tony Valeri on behalf of the Effort Trust Company, be required to pay to the City of Hamilton the sum of \$24,000, which is 50% of the cost of providing three parking spaces.

That the City Solicitor's Department be directed to prepare the Cash-in-Lieu of Parking agreement as required.

FINANCIAL IMPLICATIONS: (IF NONE, STATE N/A)

The sum of \$24,000, will be added to the reserve for off-street parking administered by the Parking Authority of the City of Hamilton.

BACKGROUND:

The subject property is occupied by an existing two-storey building. The present zoning on the property "E-3-S525/ requires the provision of three parking spaces for any permitted use on the property.

The applicant proposes to use the property for a 44 seat restaurant. The three required parking spaces cannot be provided on site or within 600-feet as required by By-law #77-190.

The cost of providing parking spaces in the area of the proposal is as follows:-

Land costs - \$15,000
Development Costs - \$ 1,000

\$16,000 per parking space

The total cost for three parking spaces is, therefore, \$48,000.

In examination of this application, the Committee discussed the percentage of payment that should be charged to the applicant. In that the use is within an existing building, is a small operation, and is in an area where pedestrian traffic is prevalent, the Committee felt that a minimum of 50% payment was applicable.

Based on 50% payment, the fee payable by the applicant is \$24,000.

4.

F O R A C T I O N

REPORT TO: SUSAN K. READER, SECRETARY
 PLANNING AND DEVELOPMENT COMMITTEE

FROM: E. M. GILL, P. ENG.
 ACTING COMMISSIONER OF ENGINEERING


DATE: March 7, 1990
COMM FILE:
DEPT FILE: S718-62

SUBJECT

Conveyance of land for park dedication with Phase I of the Gardens of Rymal subdivision, for Phase I and future Phases of the Gardens of Rymal subdivision.

RECOMMENDATION

That the City accept title from the owner for those lands shown as Block "122" of the approved draft plan of subdivision known as "The Gardens of Rymal". These lands are designated for park purposes. The lands are to be used as credit in lieu of a cash payment for the 5% parkland dedication requirement, for all phases of development. The owner's solicitor is to prepare the necessary deed and certify title to the City.



E. M. Gill
Acting Commissioner of Engineering

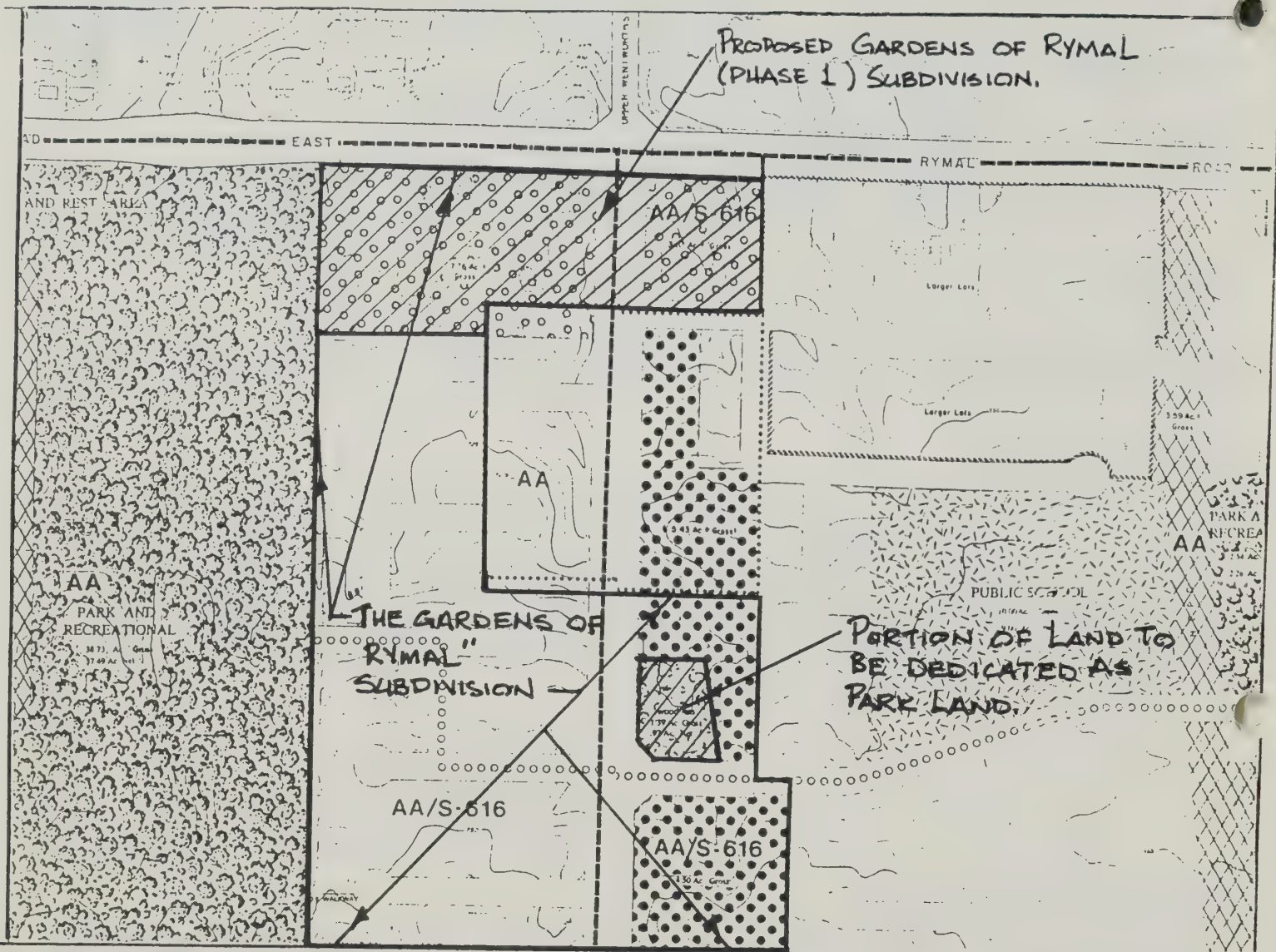
FINANCIAL IMPLICATION

There are no financial implications as this is a transfer of land only.

BACKGROUND

For economic reasons, the owners (Benemar Construction Inc.) have decided to develop The Gardens of Rymal subdivision in several phases. Part of the approved draft plan for "The Gardens of Rymal" subdivision, known as Block "122", has a designated land use for "parks and recreational use". Benemar Construction Inc. is requesting that they dedicate this portion of land in conjunction with the first phase of development and establish a parkland credit balance from which they can draw on, for the 5% parkland dedication requirement in all phases of "The Gardens of Rymal Subdivision". These lands are outside of the proposed Phase I limits and would not normally be transferred to the City until they were included in a subsequent phase of development.

MJI:rc
encl.



NOTE: This is a GUIDE PLAN only and is subject to change. For details contact the local planning division of the Regional Municipality of Hamilton-Wentworth.

LEGEND:

..... Board of Education for the City of Hamilton Existing School Sites

o o o o o o o Possible Bike Route

LAND USE RESIDENTIAL

- single & double
- attached housing
- low density apartments
- medium density apartments
- high density apartments
- commercial & apartments

- COMMERCIAL
- INDUSTRIAL
- CIVIC & INSTITUTIONAL
- PARK & RECREATIONAL
- OPEN SPACE
- UTILITIES

- Neighbourhood Boundary
- Zoning Boundary

Approvals

Planning Committee NOV. 1, 1989 Council NOV. 14, 1989

Latest Revision Date NOV. 29, 1989

CITY OF HAMILTON
PLANNING DEPARTMENT
CHAPPEL EAST
CHAPPEL WEST

APPROVED PLAN



0 100 m
SCALE 50 m

EXISTING POPULATION (1988) 10



5.

P5-4-3-2-2

March 14, 1990

Members of the City of Hamilton
Planning and Development Committee

Re: Business Land Use Advisory Board
- Request for Staff to Undertake Study of Residential Enclaves

The Business Land Use Advisory board, at their meeting of February 13, 1990, considered a Notice of Motion as follows:

"The Business Land Use Advisory Board request the Planning and Development Committee to stop expropriation procedures in the enclaves acquisition program."

The Board discussed this Motion at length with clarification provided by the staff of the Planning Department and Real Estate Division of the Property Department.

In concluding the discussion, two amendments were put forward to the original Motion as follows:

- o that the acquisition program be put on hold for a six month period until an evaluation of each enclave is undertaken to identify the areas where acquisition should be continued or stopped; and,
- o excluding the residential properties in Alpha that were presently inhabited.

The Motion, as thus amended, was lost on a tie vote.

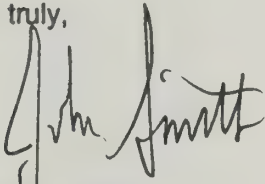
A new Motion was put forward to review all the enclaves, including those not now under the acquisition program, with a view to their ultimate land use and implementation strategies, notwithstanding the mandate of the acquisition program. The Motion was carried.

Accordingly, the Business Land Use Advisory Board has requested the Planning and Development Committee consider the following:

- o that a comprehensive study be undertaken to review all the enclaves to determine their long term land use and implementation strategies, notwithstanding the original mandate of the acquisition program.

I am bringing this matter to your attention at the request of the Business Land Use Advisory Board.

Yours truly,

A handwritten signature in black ink, appearing to read "John Smith", written over a vertical line.

Alderman J. Smith
Chairman
Business Land Use Advisory Board

CF/dkp

c.c. - A. L. Georgieff, Director of Local Planning
 - D. W. Vyce, Director of Property

A:\BLUAB

FOR ACTION

6.

REPORT TO: SUSAN REEDER, SECRETARY
PLANNING AND DEVELOPMENT COMMITTEE

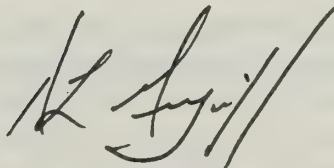
DATE: March 14, 1990
COMM FILE:
DEPT FILE: P5-4-2-20

FROM: J. D. THOMS, COMMISSIONER
PLANNING AND DEVELOPMENT DEPARTMENT

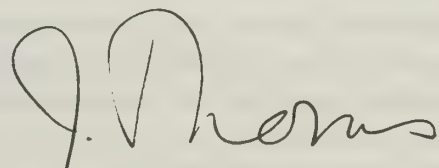
SUBJECT: Council Direction - Provincially-Owned Lands - Affordable Housing

RECOMMENDATION:

1. The Ministries of Municipal Affairs, Housing and Government Services be advised to take a leadership role in developing appropriate Provincially-owned lands in the City of Hamilton, as identified by this report, for affordable housing; and,
2. That a copy of this report be forwarded to the Ministries of Municipal Affairs, Housing and Government Services for their information.



A. L. Georgieff, M.C.I.P.
Director of Local Planning



J. D. Thoms, M.C.I.P.
Commissioner
Planning and Development Department

EXPLANATORY NOTE

On October 31, 1989, Hamilton City Council directed staff to identify Provincially-owned lands within the City of Hamilton. A general review of all Provincially-owned lands in Hamilton was undertaken to determine basic potential for affordable housing opportunities. As a result of this review, properties were identified with potential for housing development. Given this potential, the Provincial Government should be encouraged to assume a leadership role and develop suitably located lands within the City of Hamilton for affordable housing.

BACKGROUND

On October 31, 1989, Hamilton City Council passed a resolution "that the Planning and Development Department be directed to identify Provincially-owned land in the City of Hamilton and encourage the Province to develop these lands by building affordable housing."

COMMENTS

The Provincial Government has extensive land holdings within the City of Hamilton. According to municipal assessment rolls, there are approximately 639 separate land parcels in the City of Hamilton under direct Provincial ownership. These parcels account for close to 500 acres in total land area. Much of this land, however, is in small parcels and already under intensive use for a variety of activities. Examples include Liquor Control Board outlets and Ontario Housing Corporation (OHC) subsidized housing units operated by the Hamilton-Wentworth Regional Housing Authority. In this regard, the clear majority of the Provincially-owned lands in Hamilton are inappropriate for new affordable housing opportunities. Only a few parcels may be appropriate for affordable housing.

While the Provincial Government has been perceived as owning a large supply of vacant lands in the City, only a small supply is available. This is different from other municipalities such as Stoney Creek in which there is a large supply of Provincially owned lands appropriate for the development of affordable housing. Other government lands including Federal, Regional and City lands were not examined as part of this study.

Upon initial review, a few Provincially-owned land parcels within the City of Hamilton may have some potential for affordable housing. Some of these parcels include vacant land; others are already partially developed and have the opportunity for an infill housing development.

To assist in determining the general feasibility of incorporating affordable housing on these lands, the General Manager of the Hamilton Municipal Non-Profit Housing Corporation (M.N.P.H.C.) was consulted. The M.N.P.H.C. has received a reserved allocation of 300 non-profit units under the Homes Now Program and is actively seeking lands in order to deliver these units.

The Provincially-owned lands that were identified as potentially suitable for affordable housing development are detailed in Appendix A. A brief description of the parcel and a site map is provided as well as general comments pertaining to possible development constraints.

Based on general surrounding land use, locational attributes and planning constraints, the following sites were identified as having some potential for affordable housing:

1. 298 Stone Church Road West. A 9.3 acre parcel of vacant land in the Gourley Neighbourhood.
2. Hamilton Beach properties. A large number of parcels in the Beach are suitable for infill housing developments.

In addition, the site at 815 Garth Street was identified as having limited potential for affordable housing (a 15.5 acre parcel of land adjacent to the Hillfield/Strathallan College).

CONCLUSIONS

The review of all Provincially-owned land in the City of Hamilton revealed only a few parcels that appear to have potential in terms of integrating affordable housing. In particular, the Provincially-owned parcel of vacant land on Stone Church Road West and the Hamilton Beach properties represent the greatest potential.

The development of these lands will assist in fulfilling the Ministry of Housing's allocation of some 1,400 non-profit housing units in the Hamilton area, under the Homes Now Program. To date, many of the non-profit housing suppliers in Hamilton have experienced difficulty in obtaining suitable lands for affordable housing developments.

In addition, the Province has the ability to further enhance the take-up of these 1,400 non-profit housing units in Hamilton through other mechanisms. Provincially-owned lands not suitable for housing development could be "swapped" for other lands that would be suitable. Alternatively, the funds earned from the sale of lands unsuitable for housing development could be used to purchase suitable sites elsewhere in the City.

The Province should be encouraged to further investigate the potential for affordable housing on these sites and, if appropriate, should investigate the necessary actions for municipal approvals. In this regard, the Province can support its own housing supply program initiatives by enhancing the supply of land suitable for affordable housing developments. The Planning and Development Department and the Hamilton Municipal Non-Profit Housing Corporation should assist in any further investigations in development of these lands for affordable housing.

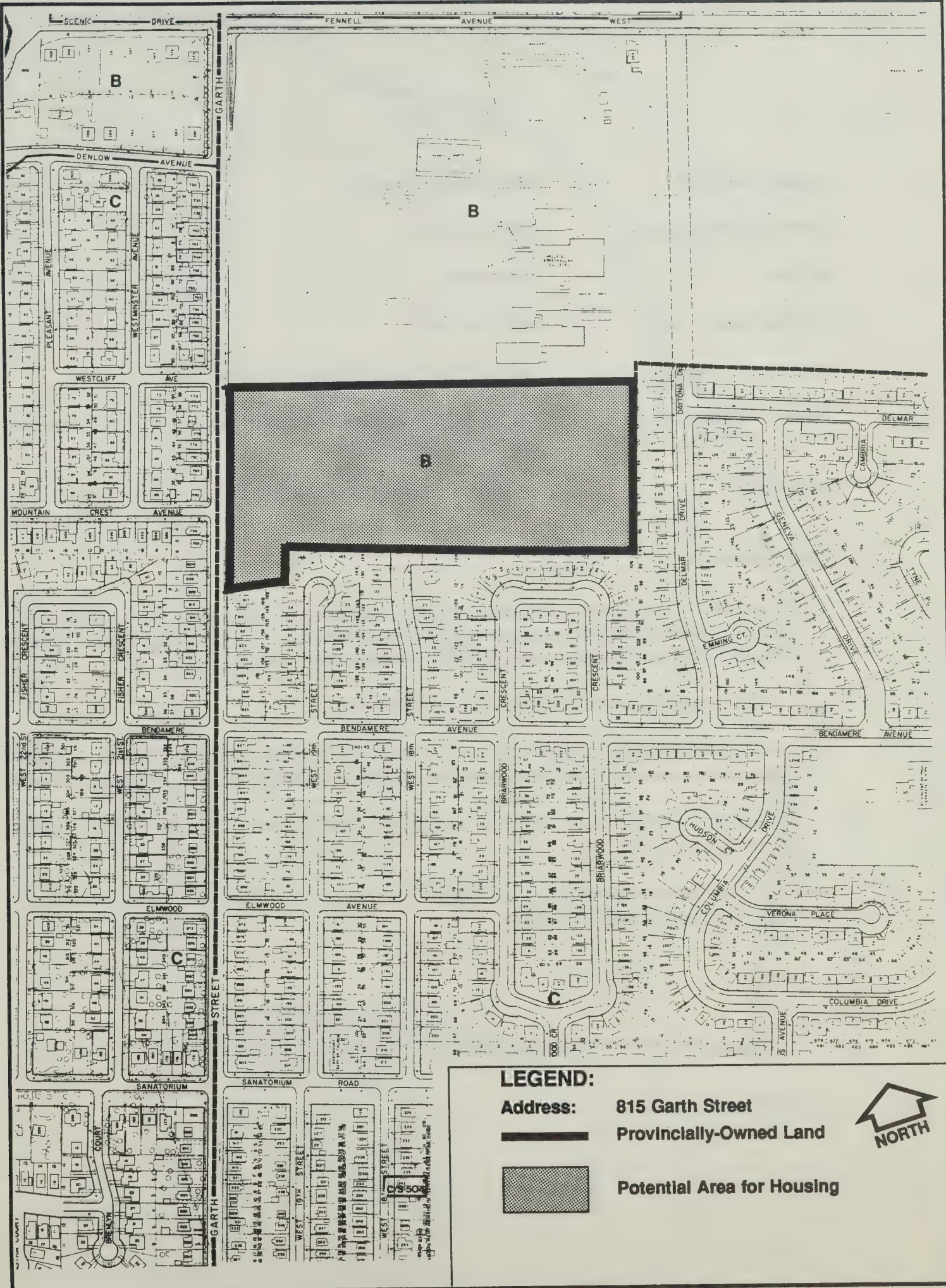
K.E.:ns/dkp
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APPENDIX A

Municipal Address: 815 Garth Street
Assessment Roll Number: 080-991-01500
Site Size: 15.49 acres
Neighbourhood: Buchanan
Existing Land Use: Open Space, adjacent to private school
Official Plan Designation: Institutional
Zoning: B - Agricultural and Residential

General Comments

- use as residential may conflict with likely desires of Hillfield/Strathallan College in terms of maintaining open space nature of the site.
- uncertain as to servicing capacities for the parcel.
- open space use appears to be the "accepted" use by the adjacent community; opposition to any development would likely be strong.
- traffic flows along Garth Street may constrain any potential development that would front onto Garth Street.
- recognizing the low density residential character of the adjacent neighbourhoods, high-rise apartments and intensive medium-density uses (e.g., stacked townhouses) would be inappropriate.
- an ideal site for a land swap.



LEGEND:

Address: 815 Garth Street
Provincially-Owned Land

Potential Area for Housing



Municipal Address: 700 Woodward Avenue

Assessment Roll Number: 050-501-01760

Site Size: 49.38 acres

Neighbourhood: Parkview East

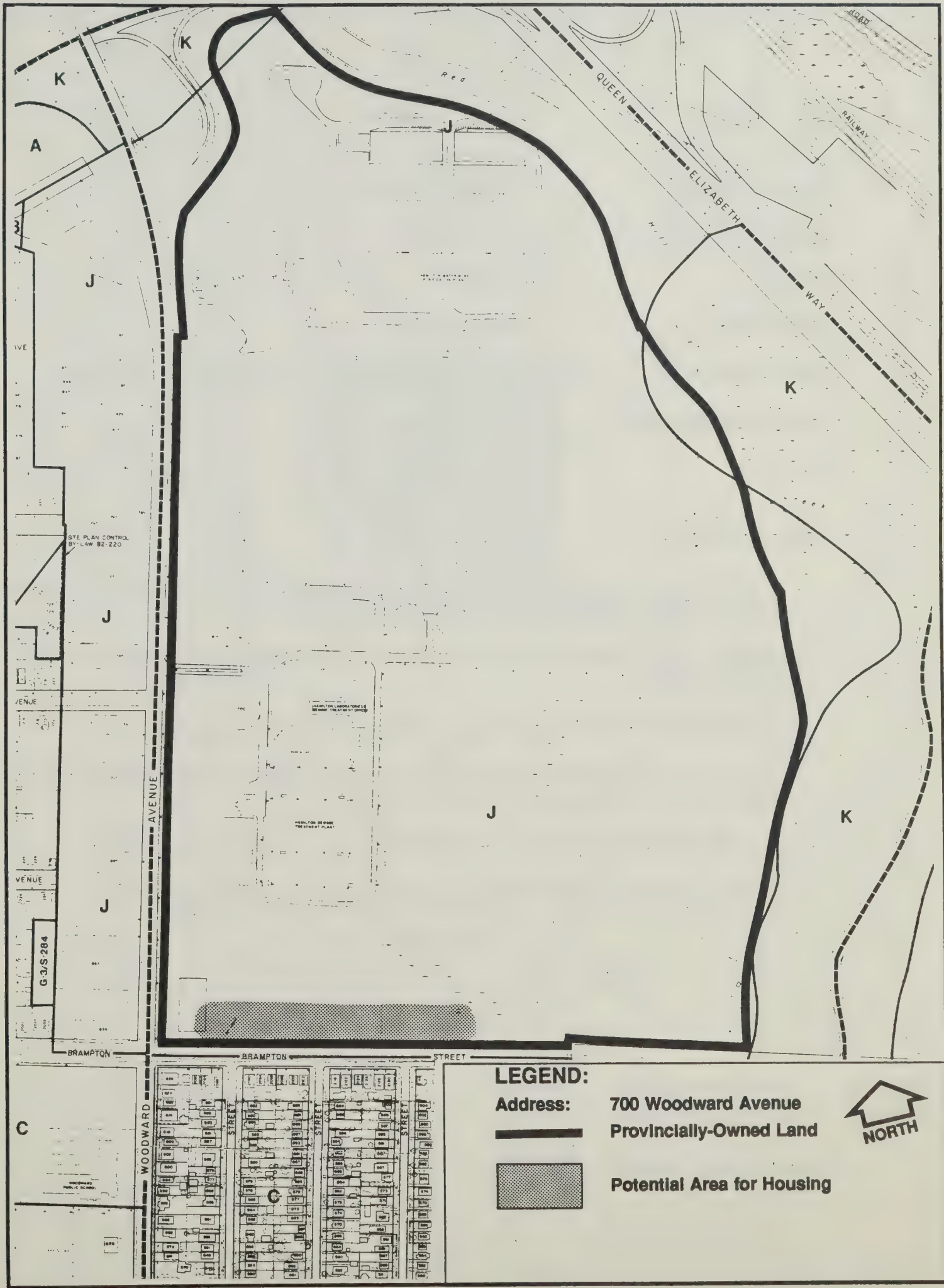
Existing Land Use: Sewage Treatment and Water Purification Plant

Official Plan Designation: Utilities. However, Residential could comply as a minor extension (Sec. 8.2 of the Official Plan).

Zoning: J - Light and Limited Heavy Industrial

General Comments:

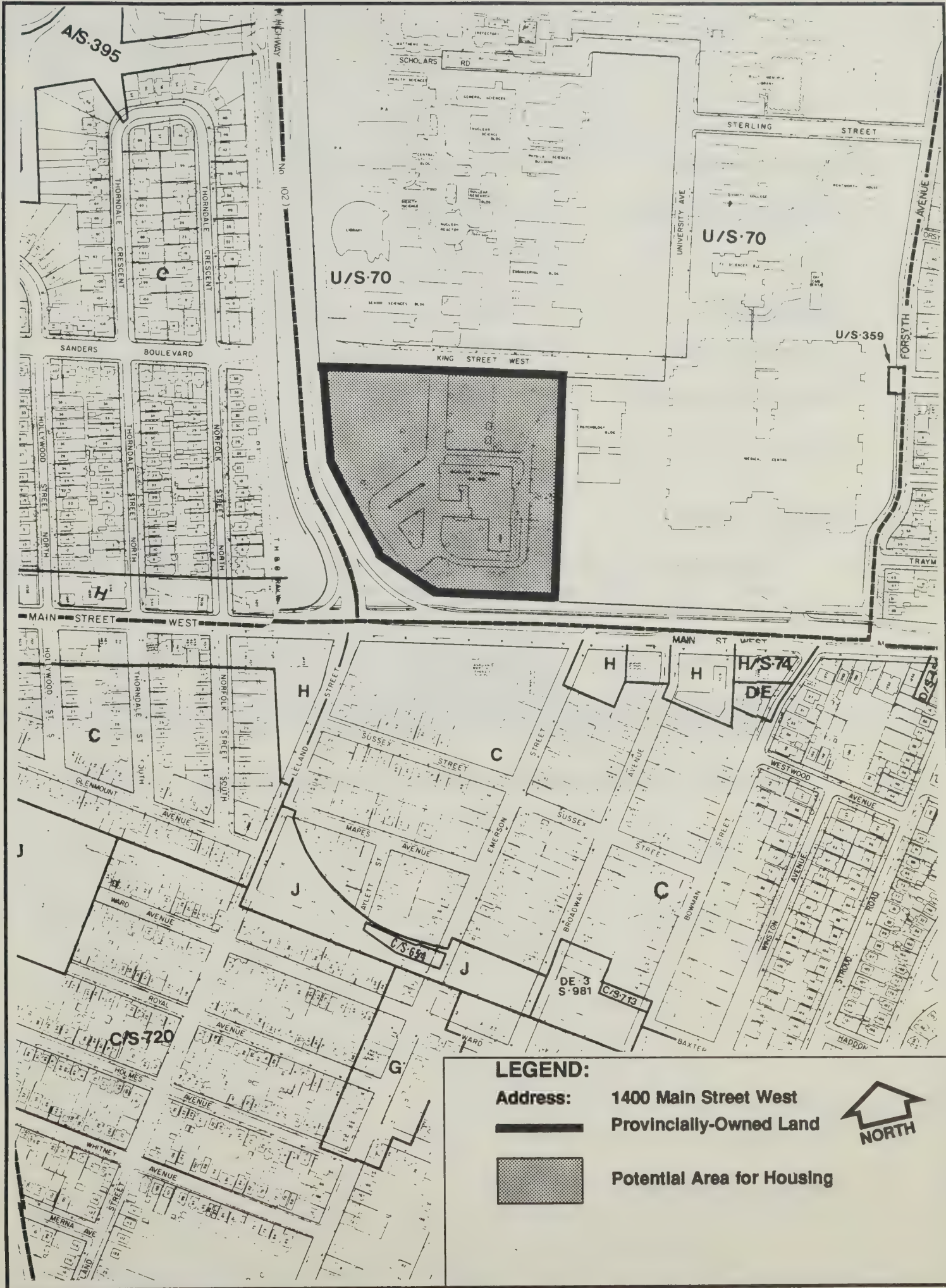
- appropriate screening and/or buffering would be required at the rear of the infill; in this regard, physical continuity with the existing residential enclave and a clear separation from the sewage treatment and water purification plant to the north would be achieved.
- uncertain as to the servicing capacities in this area.
- as the Brampton Street Landfill site is no longer active, truck traffic will have been reduced significantly; however, a Regional works yard is situated at the eastern end of Brampton Street.
- the lands immediately north of Brampton Street are currently used as a park with two baseball diamonds.
- hydro lines with pylons run parallel to Brampton Street on the north side; the area under the hydro lines are presently used for parking.



Municipal Address: 1400 Main Street West
Assessment Roll Number: 010-055-00010
Site Size: 7.2 acres
Neighbourhood: Cootes Paradise
Existing Land Use: Hamilton Teachers College/St. Mary's Catholic High School
Official Plan Designation: Major Institutional
Zoning: U - University

General Comments:

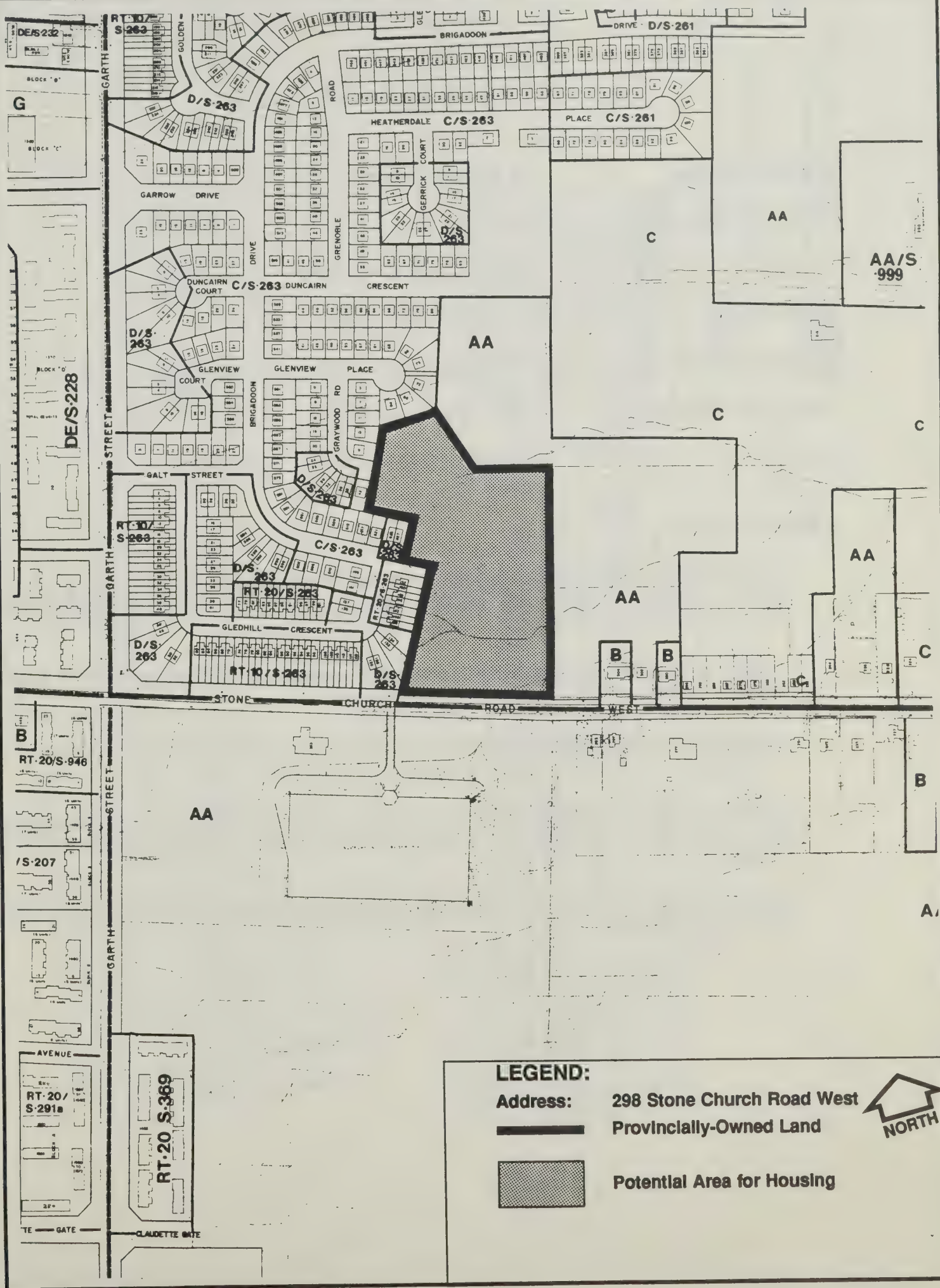
- if deemed surplus, the existing structure may not be convertible to a residential use; a detailed building evaluation would have to be undertaken.
- appears to be an adequate supply of land for low-rise apartment type developments in addition to existing structure.
- may conflict with objectives of McMaster University in terms of future use for this parcel.
- both the Hamilton-Wentworth Roman Catholic Separate School Board and McMaster University have expressed desire in obtaining this parcel for their own uses.
- good transit links and accessibility to other locations within Hamilton and the Region.
- an ideal location for singles housing (e.g. students), assuming sufficient demand exists.



Municipal Address: 298 Stone Church Road West
Assessment Roll Number: 080-973-00625
Site Size: 9.30 acres
Neighbourhood: Gourley
Existing Land Use: Vacant Land
Official Plan Designation: Residential
Zoning: AA - Agricultural

General Comments:

- recognizing the size of the parcel, any development should mix market and "affordable" dwelling units; in other words, developing the whole parcel as "affordable" (non-profit or low cost ownership) would not be appropriate.
- the southern portion of this parcel is designated for attached housing in the neighbourhood plan.
- lands situated to the east of the parcel are to be developed prior to any development occurring on this parcel due to the staging of servicing; likely development would be 2-3 years away.
- a good site for affordable single-detached and/or semi-detached ownership dwellings.



Municipal Address: 41 separate parcels

Assessment Roll Number: n/a

Site Size: Total land area is 9.79 acres.

Neighbourhood: Hamilton Beach A, B & C

Existing Land Use: Mostly vacant land, some single-family dwellings

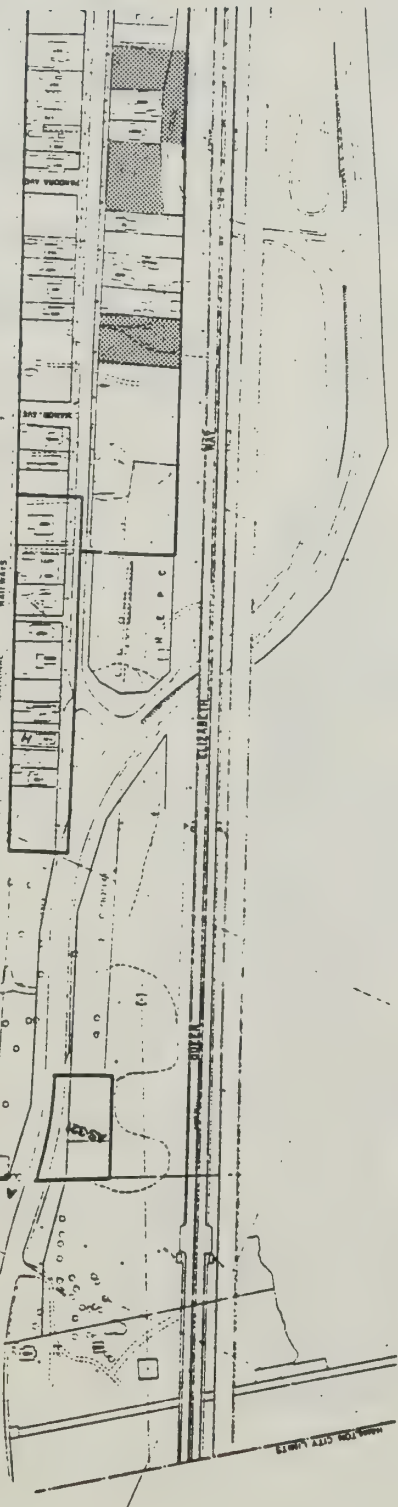
Official Plan Designation: Open Space

Zoning: Predominantly C - Residential (Single-Family)

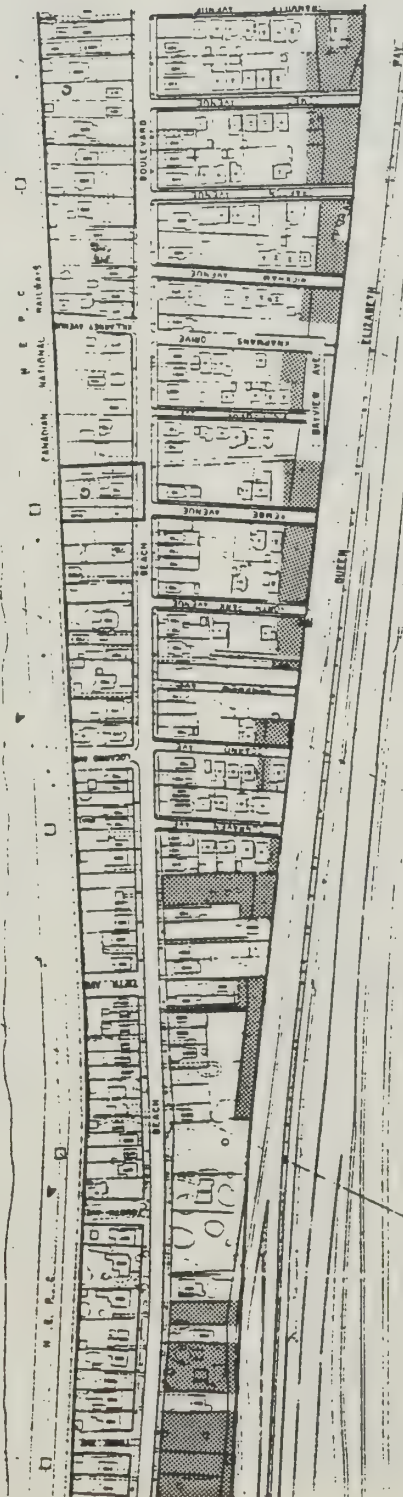
General Comments:

- a considerable number of parcels on the Hamilton Beach are in public ownership. Along with the Province (Ministry of Transportation and Communications), the City of Hamilton and the Hamilton Region Conservation Authority as well own a number of properties.
- recognizing the size of available land parcels, infill development can take the form of single-detached, townhouse and low-rise apartment structures.
- assuming residential densities remain consistent with the Beach Concept Plan, the estimated number of infill housing units would be approximately 300 at maximum.
- the Hamilton Beach is presently not serviced; however, it is within the Region's five year servicing plan. Moreover, the Province could provide additional funding to accelerate the installment of servicing.
- new development on the Hamilton Beach may have the positive effect of stimulating other private development initiatives.

LAKE ONTARIO



LAKE ONTARIO



LEGEND:

Address:

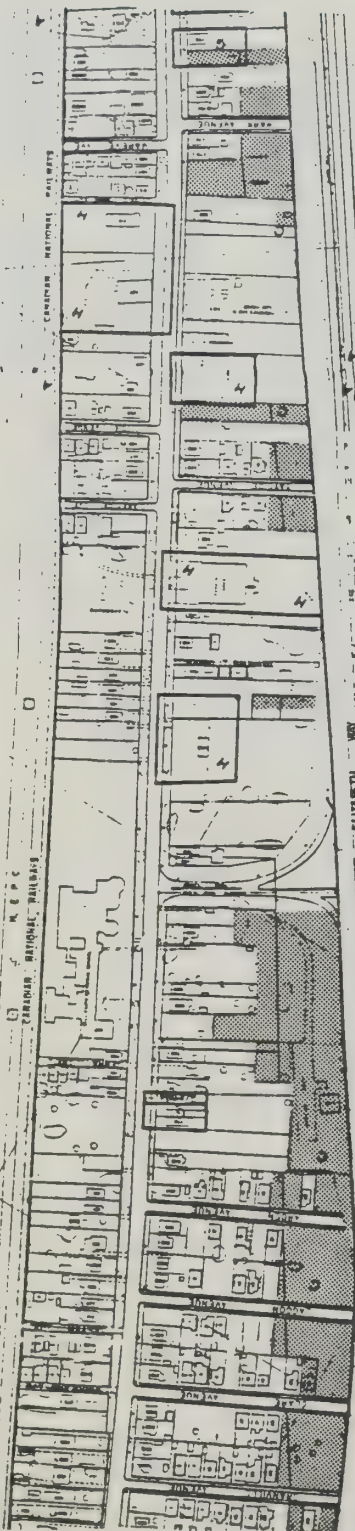
Several, 41 Land Parcels



Provincially-Owned Land
and Potential Area for Housing

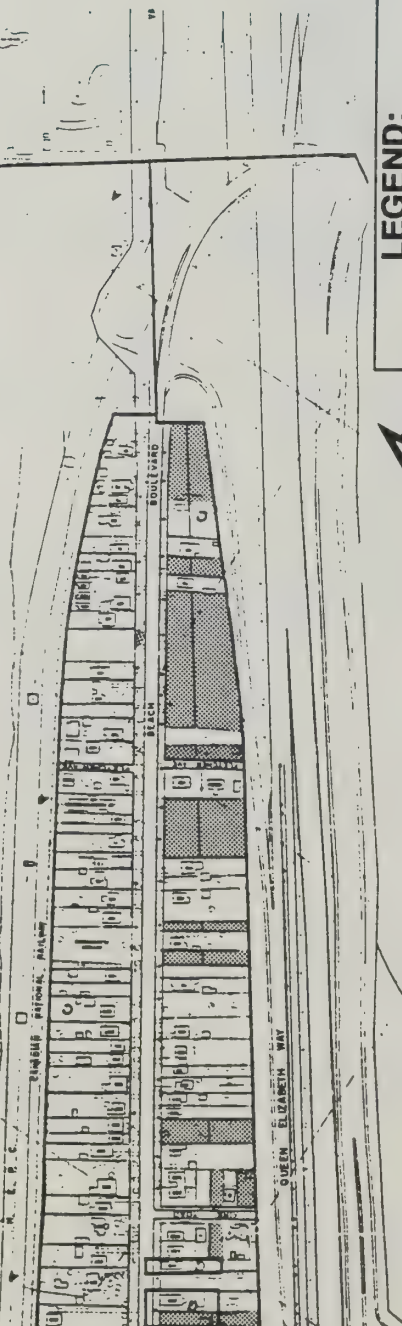


LAKE ONTARIO



QUEEN STREET

LAKE ONTARIO



LEGEND:

Address:

HAMILTON HAR

Several, 41 Land Parcels

Provincially-Owned Land
and Potential Area for Housing



Municipal Address: 100 West Fifth Street

Assessment Roll Number: 081-001-00610

Site Size: 107.11 acres

Neighbourhood: Mohawk

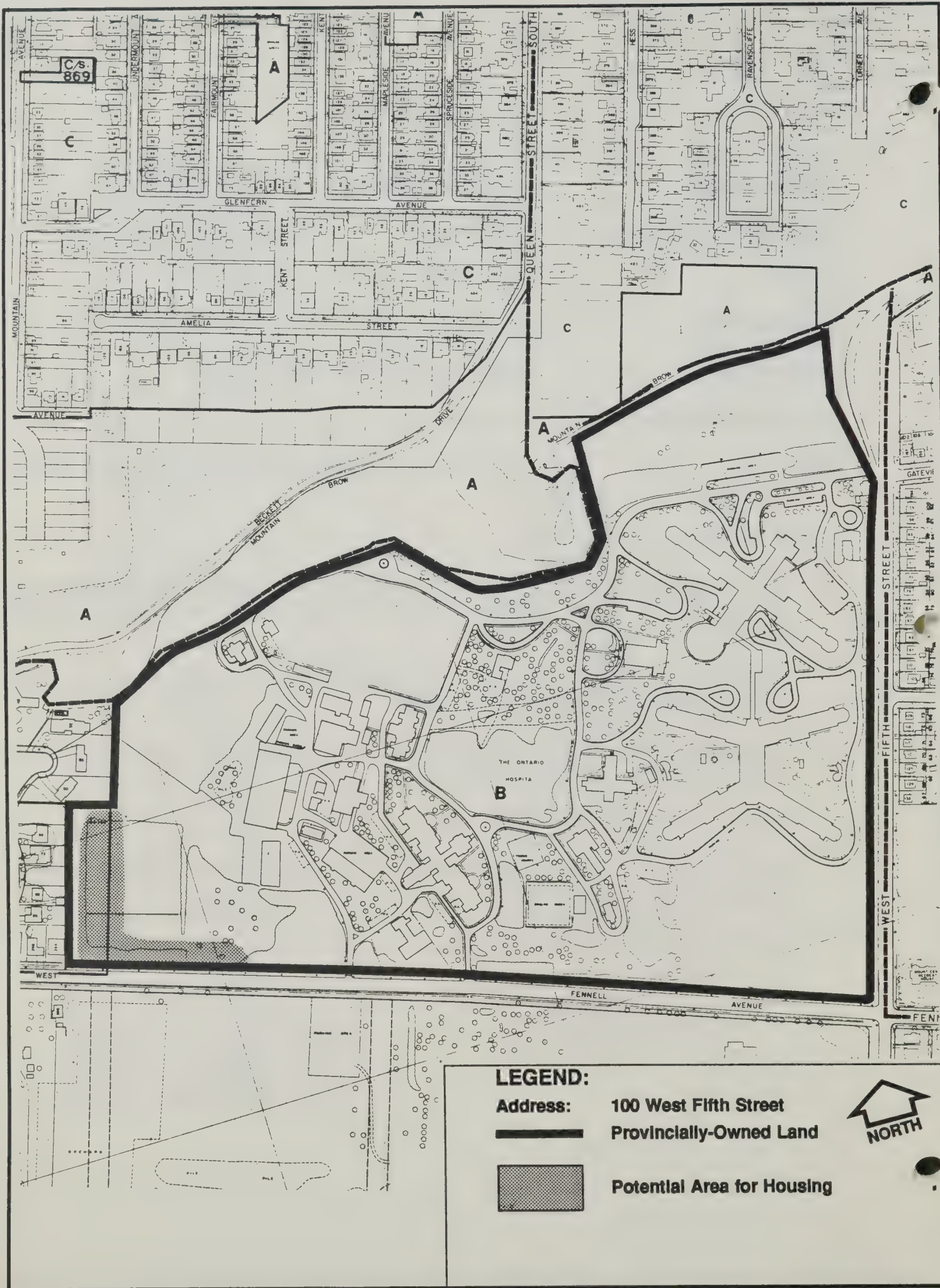
Existing Land Use: Hamilton Psychiatric Hospital/Open Space

Official Plan Designation: Institutional

Zoning: B - Agricultural and Residential, B-1 - Agricultural and Residential

General Comments:

- although the parcel contains a wide amount of vacant land, the opportunity for infill is restricted to the western portion as current traffic volumes at the corner of West Fifth and Fennell would be restrictive.
- development would involve removal of green space with mature trees and a baseball diamond; neighbourhood opposition would likely be strong.
- appropriate buffering would have to be established to ensure a distinct separation between the hospital and any new residential development.
- unclear as to the availability of hard services for this parcel.
- use of this portion for residential development may conflict with desires of hospital in terms of maintaining open space character.
- the mix of land uses may be inappropriate.



FOR ACTION

REPORT TO:

SUSAN REEDER, SECRETARY
PLANNING AND DEVELOPMENT
COMMITTEE

DATE: March 13, 1990

COMM FILE:

DEPT FILE: ZA-89-124
Fessenden
Neighbourhood

FROM:

J.D. THOMS, COMMISSIONER
PLANNING AND DEVELOPMENT DEPARTMENT

SUBJECT:

Request for change in zoning - property located at No. 648 Upper Paradise Road.

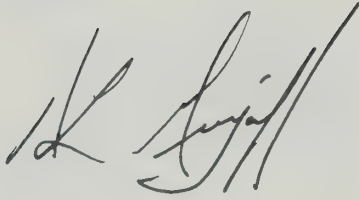
RECOMMENDATION

- A. That approval be given to Zoning Application 89-124, Mary Agnes Kosar and Gail Elizabeth Holmes, owners, requesting a change in zoning from "RT-20" (Townhouse-Maisonette) District to "C" (Urban Protected Residential, etc.) District, for property located at No. 648 Upper Paradise Road, as shown on the attached map marked as APPENDIX "A", on the following basis:
- i) That the subject lands be rezoned from "RT-20" (Townhouse - Maisonette) District to "C" (Urban Protected Residential, etc.) District;
 - ii) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Maps W-37A & W-37B for presentation to City Council;
 - iii) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area; and
 - iv) That the Fessenden Neighbourhood Plan be amended by redesignating the subject lands from "ATTACHED HOUSING" to "SINGLE and DOUBLE" residential;
- B. That the residential building setback policy as established by City Council for properties adjacent to the East-West Freeway Corridor, be amended to provide for a minimum building setback of 18.84 m (62.0 ft.) for the subject property whereas 22.86 (75 ft.) is required.

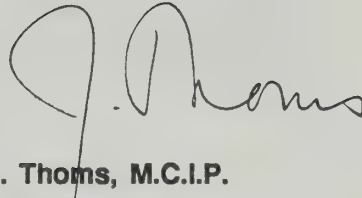
EXPLANATORY NOTE

The purpose of the By-law is to provide for a change in zoning from "RT-20" (Townhouse - Maisonette) District to "C" (Urban Protected Residential, etc.) District for property located at No. 648 Upper Paradise Road, as shown on the attached map marked as APPENDIX "A".

The effect of the By-law is to permit development of the property for a single-family dwelling.



A.L. Georgieff, M.C.I.P.
Director of Local Planning



J.D. Thoms, M.C.I.P.
Commissioner
Planning and Development Department

FINANCIAL IMPLICATIONS

N/A.

BACKGROUND

● Current Application

The purpose of the application is to establish the appropriate zoning to permit a single-family dwelling on the site. Upon construction of the freeway grade separation, access to the proposed lot will be provided across adjoining lands to the north via a right-of-way to Upper Paradise Road through the consent(s) of the Regional Land Division Committee.

● Land Severance Application

At its meeting held on January 2, 1990, the Regional Land Division Committee considered land severance application H-1-90 at which time it was deferred, pending the outcome of the rezoning application and clarification of the right-of-way easement for access purposes.

APPLICANTS

Mary Agnes Kosar and Gail Elizabeth Holmes, owners.

LOT SIZE AND AREA

- 12.28 m (40.30') of lot frontage on Upper Paradise Road;
- 30.48 m (100.00') of lot depth; and,
- 374.38 m² (4,030 sq. ft.) of lot area.

LAND USE AND ZONING

Subject Lands

Existing Land Use

Existing Zoning

vacant

"RT-20" (Townhouse - Maisonette) District

Surrounding Lands

to the north	single-family dwelling	"C" (Urban Protected Residential, etc.) District
to the south	vacant	"RT-20" (Townhouse-Maisonette) District
to the east	single-family dwellings	"R-4" (Small Lot Single-Family Detached) District
to the west	townhouses	"RT-20" (Townhouse-Maisonette) District

OFFICIAL PLAN

Designated "RESIDENTIAL" on Schedule "A" - Land Use Concept Plan of the Official Plan and subject to among others, the following policies:

- "A.2.1.1 The primary use permitted in the areas designated on Schedule "A" as RESIDENTIAL will be for dwellings. Various types of dwellings are included within this designation, while preference will be given to the locating of similar densities of development together.
- C.7.8 Council may require appropriate measures to moderate the effects of noise, visual intrusion or other undesirable impacts on new RESIDENTIAL developments adjacent to arterial or Inter-Regional Highways and Railway lines.
- C.7.9 Council will endeavour to minimize impacts on outdoor recreational space of new development from noise in excess of 55 decibels (dBA) generated by adjacent existing or proposed arterials, Inter-Regional Highways or Railway lines.
- C.7.10 Council will require the developer of proposed RESIDENTIAL development adjacent to the proposed East-West and North-South Transportation Facility to provide evidence that the noise levels in outdoor recreation space, after applying appropriate noise attenuation measures, is the lowest level practicable. RESIDENTIAL development will only be permitted where attenuated noise levels in outdoor recreational space do not exceed 70dBA. Council will not seek attenuation requirements where noise levels are, or are expected to be, at or below 55dBA.
- C.7.13 Noise attenuation measures will include but not be limited to, the following:
- i) Sound-proofing measures and construction techniques, general layout and design of the structure or outdoor recreational space with respect to noise sources;
 - ii) Spatial separation from the source, including the insertion of permitted sound insensitive uses between source and receivers;

- iii) Building setbacks;
- iv) Acoustical barriers such as berms, walls, favourable topographical features or other intervening structures.

C.7.16 Where noise levels are expected to exceed 55dBA in outdoor recreational spaces after the implementation of sound attenuation measures, Council will require, as a condition of approval of proposed RESIDENTIAL development, that future tenants or purchasers are advised that, despite the inclusion of noise control measures, noise levels may become of concern, occasionally interfering with some activities of the occupants. Such a warning provision will be registered on title or included as a clause in any Lease or Rental Agreement."

Based on the Noise Impact Assessment Regarding Mountain East-West and North-South Transportation Corridor, prepared by Valcoustics Canada Ltd., noise levels are expected to be greater than 55dBA (approximately 59dBA). As such, the Freeway Project Office should be contacted to ensure appropriate noise attenuation measures are provided.

The proposal does not conflict with the intent of the Official Plan.

NEIGHBOURHOOD PLAN

Designated for "ATTACHED HOUSING" on the approved Fessenden Neighbourhood Plan, the proposal does not comply. Approval of the application would require redesignation from "ATTACHED HOUSING" to "SINGLE and DOUBLE" residential.

COMMENTS RECEIVED

- The Building Department has advised with respect to parking spaces that:

"The manoeuvring length must be 6.0 m (19.69'), shown is 12' - 0".

- The Freeway Project Office has advised that:

"...the Freeway Office has no objection to allowing access to Upper Paradise Road until construction for the grade separation commences (app. 1996) provided that the applicant enter into an agreement to be registered on title including the following:

1. that the owner agree to close the access to Upper Paradise upon 90 days notice from the Region;
2. that the owner assume all associated costs;
3. that the existing rear access remain clear of any structures in order to ensure future access."

- The Traffic Department and the Hamilton Region Conservation Authority have no comments or objections.
- The Hamilton-Wentworth Engineering Department has advised that:

"Municipal sewers and public watermain are available to service the subject lands. The designated road allowance width of Upper Paradise Road is 30.48 m (100 feet). In accordance with this designation the Region previously acquired road allowance widenings on Upper Paradise Road by Instrument No. 406559CD and shown as Part 1 on Reference Plan 62R-8597. We do not anticipate any further road allowance widenings at this time. Any works which may occur within the Upper Paradise Road road allowance, as widened, must conform to the Regions Road Use By-law. It is unclear whether or not the owner will use the existing access to Upper Paradise Road for the new lot. We have reviewed our roadway plans and note that there is a knoll in the roadway south of the subject lands which limits sight distances for motorists entering the roadway. We therefore advise that the access for the new lot is not to be constructed any further south than the existing access to No. 648 Upper Paradise Road. Ideally, the access to this new lot should be via the right-of-way to the rear of No. 648 Upper Paradise Road to Upper Paradise at this time."
- To-date, no comments have been received from the Hamilton-Wentworth Regional Police Department.

COMMENTS

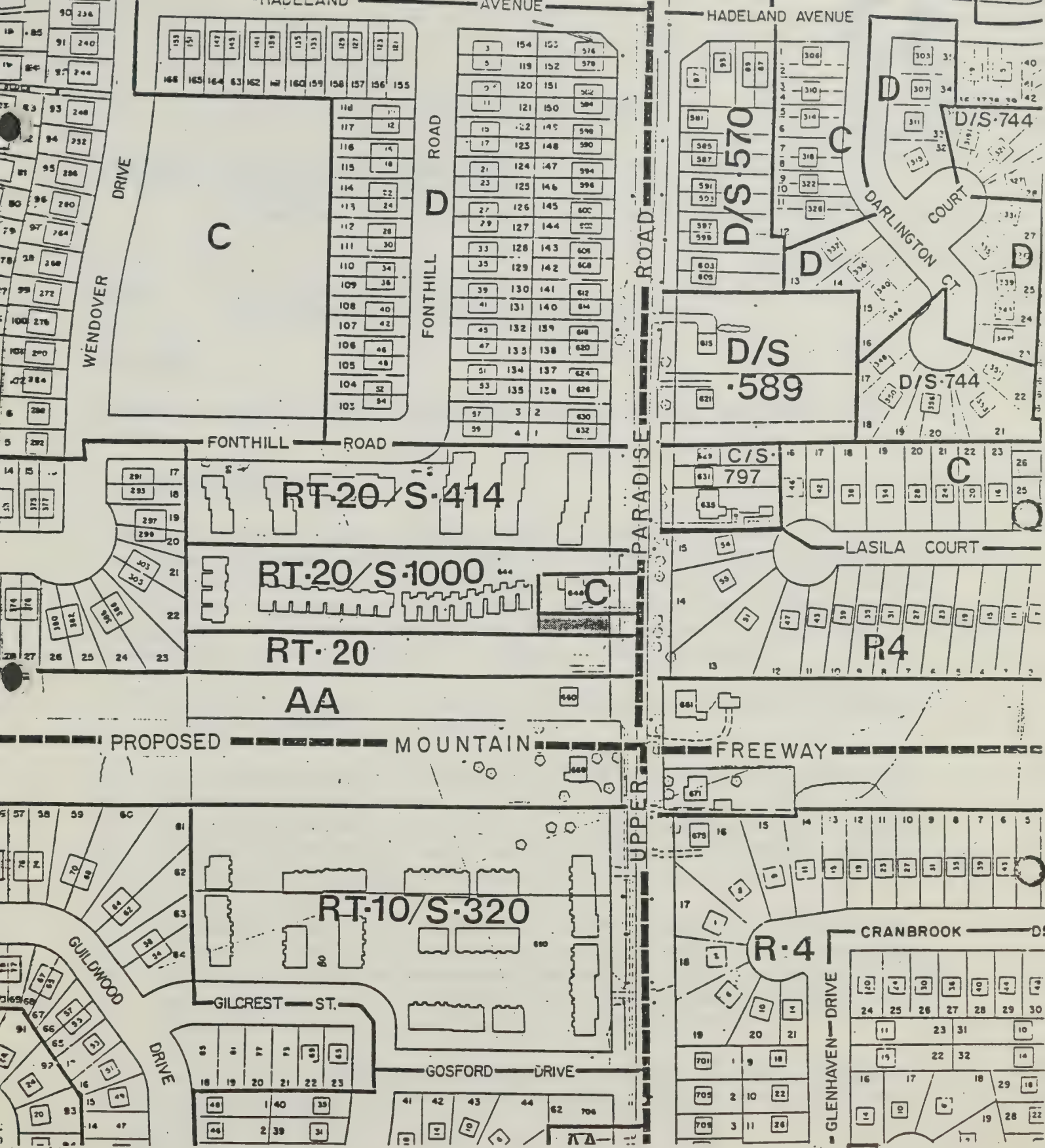
1. The proposal does not conflict with the intent of the official plan.
2. The proposal conflicts with the intent of the approved Fessenden Neighbourhood Plan. In this regard, approval of the application would require redesignation from "ATTACHED HOUSING" to "SINGLE and DOUBLE" residential.
3. The application has merit and can be supported from the following reasons:
 - a) It complies with the intent of the Official Plan;
 - b) It would be compatible with established low density residential development in this area comprised of single-family and townhouse dwellings;
 - c) The lands to be retained and conveyed through a land severance application would have sufficient lot frontage and lot area to meet with the requested "C" (Urban Protected Residential, etc.) District regulations;
 - d) The proposed site is considered surplus to the property and cannot be developed in accordance with the "RT-20" District regulations.

4. Council Policy requires residential buildings to be set back at least 22.86 m (75.0 ft.) from the limit of the proposed East-West Freeway. The applicant is requesting a variance to establish a reduced residential building setback of 18.84 m (62.0 ft.). In this regard, the Freeway Project Office has advised that the variance can be supported on the basis that the side yard of the proposed lot will flank the berm of the Freeway right-of-way. In most cases, lots backing onto the berm provide a minimum 25 foot rear yard adjacent to the berm.
5. In accordance with Policy C.7.16 of the Official Plan, a warning clause should be placed on title at the land severance stage of development advising of possible noise effects interfering with some activities of the occupants.
6. In keeping with the recommendation of the Freeway Project Office, the owner(s) should be required to enter into a Driveway Alteration Agreement to be registered on title with respect to the driveway access onto Upper Paradise Road. This can be accommodated as a condition of land severance approval.

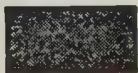
CONCLUSION

On the basis of the foregoing, the application can be supported.

GAW/ma
WPZA89124



LEGEND



SITE OF THE APPLICATION



FOR ACTION

8.

REPORT TO: SUSAN REEDER, SECRETARY
PLANNING AND DEVELOPMENT
COMMITTEE

DATE: 1990 March 14
COMM. FILE:
DEPT. FILE: ZA-89-129
Central
Neighbourhood

FROM: J.D. THOMS, COMMISSIONER
PLANNING AND DEVELOPMENT DEPARTMENT

SUBJECT

Request for a change in zoning - land at the northwest corner of James Street North and Vine Street.

RECOMMENDATION

That Zoning Application 89-129, J. Beume Real Estate, Ltd., owner, for a change in zoning from "L-c" (Planned Development - Commercial) District to "H" (Community Shopping and Commercial, etc.) District modified, for Block "1" and a modification to the established "H" (Community Shopping and Commercial, etc.) District regulations for Block "2", to permit a seven storey office building, for property located at the northwest corner of James Street North and Vine Street, as shown on the attached map marked as APPENDIX "A", be **DENIED** for the following reasons:

- i) it conflicts with the intent of the approved Central Neighbourhood Plan which designates the land for "COMMERCIAL AND APARTMENTS";
- ii) it is an overintensification of land use in that adequate side yards, properly sized loading spaces, etc. will not be provided. In addition, the proposal is for an increase in density by approximately one-third of that permitted in the "H" (Community Shopping and Commercial, etc.) District (5.26 gross floor area requested vs 4.0 gross floor area permitted), as well as an increase in the allowable height by approximately 12 metres (29.7 m vs 17 m);
- iii) the proposal would be out of character with the existing neighbourhood. The surrounding properties, especially James Street North, are primarily comprised of three storey buildings consisting of a first floor of commercial use and two floors of residential use. A seven storey office building would be out of character with the established pattern of land use on James Street North and an undesirable intrusion into the neighbourhood; and,
- iv) approval of the application would encourage other similar applications which, if approved, would undermine the intent of the Zoning By-law and alter the character of James Street North.


A.L. Georgieff, M.C.I.P.
Director of Local Planning


J.D. Thoms, M.C.I.P.
Commissioner
Planning and Development Department

FINANCIAL IMPLICATIONS

N/A

BACKGROUND

The applicant intends to construct a seven storey office building. The ground floor would be for commercial purposes (a bank and a restaurant) and the top six floors would be used for offices.

APPLICANT

J. Beume Real Estate Ltd., owner.

LOT SIZE AND AREA

The subject property is L-shaped and has:

- 53.02 m (173.96 feet) of frontage on Vine Street;
- 19.57 m (64.21 feet) of frontage on James Street North; and,
- 1,375.9 m² (14,811,41 square feet) of lot area.

LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	parking area	"H" (Community Shopping and Commercial, etc.) District and "L-c" (Planned Development - Commercial) District
<u>Surrounding Lands</u>		
to the north	retail stores and apartments	"H" (Community Shopping and Commercial, etc.) District
to the south	restaurant	"H" (Community Shopping and Commercial, etc.) District
to the west	parking area	"CR-3" (Commercial - Residential) District

to the east

furniture store and
Tivoli Theatre

"H" (Community Shopping and
Commercial, etc.) District

OFFICIAL PLAN

Designated "CENTRAL POLICY AREA" on Schedule "A" - Land Use Concept, the following policies are applicable:

- "A.2.8.1 To promote the CENTRAL POLICY AREA as a multi-use node for both the City and the Region, a wide range of uses will be permitted where compatibility among adjacent uses can be achieved. The primary uses permitted in the CENTRAL POLICY AREA, as shown on Schedule "A", will be for the following uses:
- i) Commercial uses such as, but not limited to, retail department stores; food, specialty and general merchandising establishments; personal services; head and branch offices and public administration offices; hotels; mixed commercial and residential uses; and in keeping with the Commercial policies set out in Subsection A.2.2 of the Plan.
- A.2.8.3 iv) Other new retail and office uses will be encouraged to locate within the existing Commercial areas along James Street North and South, King Street East, and within Hess Village and Jackson Square, to enhance the established retail character of these areas."

The proposal does not conflict with the intent of the Official Plan.

NEIGHBOURHOOD PLAN

Designated "COMMERCIAL AND APARTMENTS" on the approved Central Neighbourhood Plan, the proposal conflicts with the intent of the plan. Approval of the application would require a redesignation to "COMMERCIAL".

COMMENTS RECEIVED

- The following agencies have no comment or objection:
 - GO Transit; and,
 - Hamilton Region Conservation Authority.
- The Building Department has advised that:
 - "1. The total floor area permitted is 59,241.6 square feet, the proposed is 77,840.4 square feet.

2. Side yard setbacks required are 3.0 m (9.84'), shown is nil.
3. Two large loading spaces (12.14' x 59'-0") are required, shown are two spaces at 12'-0" x 25'-0".
4. Minimum rear yard required is 4.5 m (14.76'). No setback shown.
5. The front yard is assumed to be on James Street North."

- The Hamilton-Wentworth Engineering Department has advised that:

"The designated road allowance width of James Street North is 26.21 m (86 feet). As a condition of development approval we recommend that a strip of land 3.155 m (10.35') be dedicated to the Region for road widening purposes.

In the absence of any details shown, any works within the adjacent road allowance, as widened, must conform to the respective Streets By-laws. All setbacks should be taken from the widened limits of James Street North. We have not received any detailed plans but note that the underground and above ground structures must be relocated outside of the road allowance, as widened.

The Traffic Department is to comment on arterial access design. The entrance to the underground and the sight distance provided appear to be substandard and more detail should be provided. We also recommend that the applicant provide a daylight vision triangle between the access and the restaurant building. These matters could be resolved at the site plan stage but the applicant should be advised of these concerns at this time.

According to our records, the alley on the west property line is a private alley and all legal arrangements for access and manoeuvring have to be resolved with the private owners."

- The Traffic Department has advised that:

"Please be advised that we have reviewed the above-noted application and find it to be satisfactory subject to the site being placed under site plan control. We have a number of concerns with respect to the submitted preliminary plan. They include:

- 1) It is our understanding that a development of this size requires two 18.0 m x 3.7 m loading spaces. The location and size of the loading area, as shown on the submitted site plan, does not provide adequate room for the manoeuvring of single unit trucks or semi-trailers.
- 2) Since vehicles will be using the parking ramp to enter and exit simultaneously, we recommend widening the curved section of the ramp to accommodate the turning radius of two vehicles.

- 3) The placement of support columns at the rear corners of parking spaces makes access to them very difficult. We suggest setting the columns back from the end of the stalls, as done with the parking spaces along the south wall.
- 4) The proposed slope of 10.25% in the underground parking area is not satisfactory.
- 5) Ownership/control over the rights-of-ways must be clarified. Please note that the parking structure suggests construction under the northerly right-of-way."

COMMENTS

1. The proposal does not conflict with the intent of the Official Plan.
2. The proposal conflicts with the intent of the approved Central Neighbourhood Plan which designates the land for "COMMERCIAL AND APARTMENTS". Approval of the application would require a redesignation to "COMMERCIAL".
3. The proposal cannot be supported for the following reasons:
 - i) it conflicts with the intent of the approved Central Neighbourhood Plan;
 - ii) it is an overintensification of land use. The proposal deviates from several of the standards of the "H" (Community Shopping and Commercial, etc.) District regulations as shown in the following table.

<u>Standard</u>	<u>Required</u>	<u>Proposed</u>
Rear Yard	min 4.5 m	3.0 m (r.o.w.)
Side Yards	min 3.0 m	1 x 4.5 m
Height	max 17.0 m	29.7 m
# of storeys (max.)	4	7
Lot Coverage (FAR)	4.0	5.26 (5.5 with road widening)
Loading Spaces (min.)	2 (12.14' x 59')	2 (12' x 25')

The applicant's planning consultant has submitted a letter (APPENDIX "B") stating reasons for seeking approval of the application. The requested variances for the east side yard (on James Street North) and the reduction in the rear yard merit

consideration. The land to be dedicated for road widening purposes along the James Street frontage will result in the proposed building being setback about ten feet from the location of the existing buildings, which is adequate. The proposed rear yard is 3.0 m whereas the Zoning By-law requires 4.5 m. Since the proposed building adjoins a right-of-way this variance is considered minor in nature.

However, the remaining requested variances (floor area ratio, building height, north and interior east side yards, and loading spaces) cannot be supported and are indicative of an over-intensification of use;

- iii) it would be out of character with the surrounding land use. This area of James Street North is predominantly a mixed commercial and residential area; the existing buildings are three storeys in height with the first floor in commercial use and the upper two floors used for residential apartments. The proposed seven storey office building would be out of character with the surrounding area in terms of height, bulk, density and the use of the land; and,
- iv) approval of the application would encourage other similar applications which, if approved, would undermine the intent of the Zoning By-law and alter the character of James Street North.

CONCLUSION

Based on the foregoing, the application cannot be supported.

MLT:bs/ma
WPZA89129

BUSINESS LAND USE ADVISORY BOARD

5. Request for staff to undertake Study of Residential Enclaves.

DIRECTOR OF LOCAL PLANNING

6. Council direction - Provincially Owned Lands - Affordable Housing.

ZONING APPLICATIONS

10:30 O'CLOCK A.M.

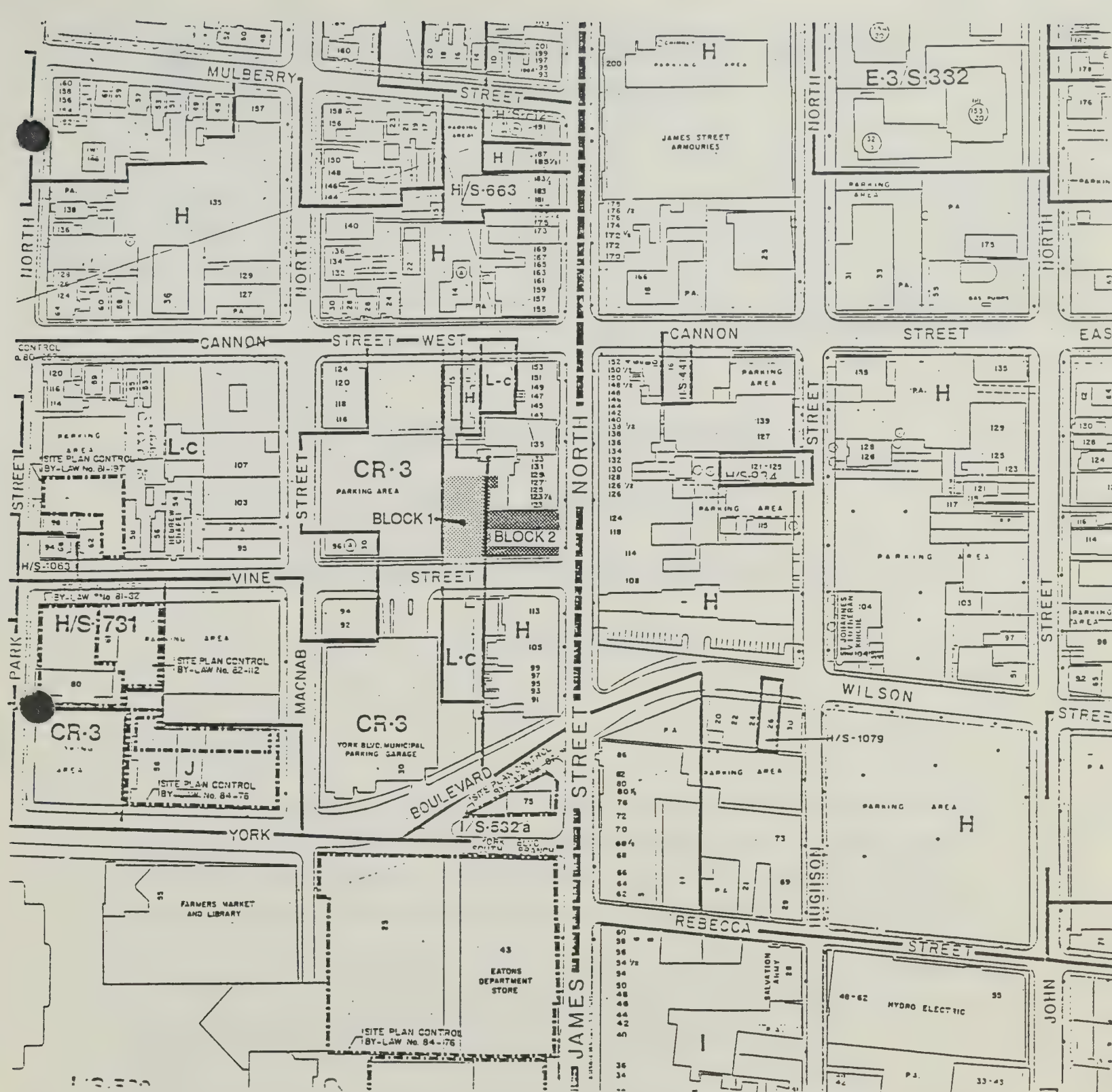
COUNCIL CHAMBERS

10:30 O'CLOCK A.M.

7. Zoning Application 89-124, M. A. Kosar and G. E. Holmes, owners, for a change in zoning from "RT-20" modified to "C" for part of property at 648 Upper Paradise Road; Fessenden Neighbourhood.
8. Zoning Application 89-129, J. Beume Real Estate Ltd., owner, for a change in zoning from "L-c" to "H" and modifications to the "H" District for land at the north-west corner of James Street North and Vine Street; Central Neighbourhood.
9. Zoning Application 90-11, W. Vucetich, owner, for a change in zoning from "C" to "HH" for property at 79 Rymal Road West; Kennedy East Neighbourhood.

10:45 O'CLOCK A.M.

10. Zoning Application 90-04, S. Gelly, owner, for a further modification to the "E-1" District for property at 1039 Main Street East; Crown Point West Neighbourhood.
11. Zoning Application 90-10, V. Baotic, applicant and part owner, for a modification to the "H" District for properties at 314-318 Queenston Road; Glenview East Neighbourhood.
- (a) Submission - Mr. & Mrs. Bryant, 106 Beland Avenue South.
12. Regulation of Gun Shops.
13. Other Business.
14. Adjournment.



Legend



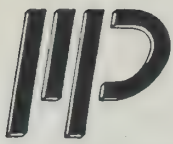
BLOCK 1

Change in zoning from "L-C" (Planned Development - Commercial) District to "H" (Community Shopping and Commercial, etc.) District, modified.



BLOCK 2

Modification to the "H" (Community Shopping and Commercial, etc.) District.



MAY, PIRIE & ASSOCIATES LIMITED
LAND USE PLANNING CONSULTANTS

2A-89-120

DONALD F. MAY, M.C.I.P.

W. MORGAN PIRIE, B.E.S.

Associate

Nancy Giles Frieday, M.C.I.P.

TELEPHONE (416) 632-4066

Oakville 847-0466

Hamilton 544-4870

FAX (416) 632-9528

3310 SOUTH SERVICE ROAD
BURLINGTON, ONTARIO L7N 3M6

INFORMATION/PLANNING REPORT

PROPOSED OFFICE BUILDING

NORTH-WEST CORNER OF JAMES STREET NORTH AND VINE STREET

CITY OF HAMILTON

OFFICIAL PLAN

The subject property comprises approximately 0.14 hectares (0.34 acres) of land located at the north-west corner of James Street North and Vine Street. The subject lands are located in the Central Neighbourhood and are currently utilized as a parking lot.

The lands are designated Central Policy Area in the Official Plan. The lands are also located within Special Policy Area 3 and designated as part of a Community Improvement Area.

The owner of the subject lands, J. Beume Real Estate Ltd., wishes to construct a seven (7) storey office building on the subject lands. At the present time, the top five (5) floors are proposed for a government agency and one (1) floor (the second floor) is proposed for a private legal firm. The two commercial uses on the ground floor will comprise a bank and a restaurant.

APPENDIX B

It is the intent of the City and Regional Official Plans that the Central Policy Area become a Regional Centre with a multi-use function. Commercial uses are permitted in the Central Policy Area, including personal services, head and branch offices and public administration offices. The City Official Plan also encourages new retail and office uses to locate within existing Commercial areas, such as James Street North.

Subsection A.2.8.9 v) of the City's Official Plan states that the proponents of development on vacant lots should address the integration of the proposal with the scale and character of adjacent structures. As such, City Council will encourage the compatibility of building height, setback, material and building lines with adjacent structures.

Upon reviewing the building plans, it is our opinion that the proponents have had proper regard for Subsection A.2.8.9 v) of the Official Plan. The developer has recognized the historical significance of the adjacent building and has designed the building such that it is stepped back from James Street North, at ground level and at various heights. Also the building material, height and lines are, in our opinion, compatible with the adjacent structures.

ZONING BY-LAW

Part of the property is zoned in the "L-c" (Planned Development) District. It is the intent of Council to remove the "L-c" Planned Development zone when a specific commercial proposal is brought forth. The appropriate zones to apply to an "L-c" area include the "G", "H", "HH", "HI", "I", "CR" and "M-11" zones.

The remainder of the property is zoned in the "H" (Community Shopping and Commercial, Etc.) District. This zone permits any commercial use permitted in an "E" or "G" District as well as

additional commercial uses. An office building is a permitted use in the "H" District, and a bank and restaurant are also permitted uses.

The purpose of the application is to replace the "L-c" zone with the "H" zone on a portion of the property, and to request site specific regulations pertaining to the rear yard setback and the height/floor area ratio of the office use.

In the "H" District, no front or side yards are required for a commercial building. A rear yard depth of at least 4.5 metres is required. The maximum height is four (4) storeys or 17.0 metres or, if side yards not less than 3.0 metres are provided, then the maximum height is eight (8) storeys. However, any building may not have a gross floor area of more than four (4) times the area of the lot.

The office building proposed would be seven (7) storeys, and would have a maximum height of 29.7 metres (97.5 feet). This includes the continuation of the front wall to screen the mechanical room on the roof. The actual roof top height is 26.8 metres (88 feet).

The area of the lot is 1,376 square metres (14,811.4 square feet), and the gross floor area of the building is 7,231.4 square metres (77,840.4 square feet). The gross floor area would therefore be 5.26 times the area of the lot.

The required rear yard is 4.5 metres (14.76 feet). The rear yard provided, i.e., the width of the rear right-of-way is 3.0 metres (10.0 feet). A variance of 1.5 metres (4.9 feet) is therefore requested to be incorporated into the site specific zoning by-law amendment.

The maximum height permitted is four (4) storeys or 17.0 metres, or eight (8) storeys or 26.0 metres if at least 3.0 metre side yards are provided. The proposed building would have a maximum

height of 29.7 metres. The proponent is providing a 4.5 metre westerly side yard, and no easterly side yard (James Street North). However, the architecture of the building is sensitive to the James Street North frontage and the building setback from James Street North does vary. (See elevation drawings).

As such, the building does, in a manner of speaking, have side yards, and while the development does not specifically meet the criteria for an eight (8) storey building, we believe some consideration should be given to the fact that a 4.5 metre side yard is provided. Seven (7) storeys are proposed at a maximum height of 29.7 metres as opposed to an eight (8) storey building with a maximum height of 26.0 metres. Depending on the interpretation, either a 12.7 metre or a 3.7 metre height variance is requested to be incorporated into the site specific zoning by-law amendment.

As mentioned above, within the "H" District, gross floor area cannot exceed four (4) times the area of the lot. Based on the proposed gross floor area, the lot coverage is 5.26 times the area of the lot. As such a variance of 1.26 times coverage is requested to be incorporated into the site specific zoning by-law amendment.

JUSTIFICATION FOR THE SITE SPECIFIC ZONING

The proponent would like to build a seven (7) storey office building in the subject location with one level of underground parking. The needs of one major public agency will be accommodated as well as a local private legal firm wishing to re-locate to larger premises. Unfortunately, the needs of these users cannot be met within the regulations of the "H" District zoning.



The accommodation of two major users within the proposed office building will increase assessment/taxes and employment, and encourage further investment within the Central Policy Area, specifically along James Street North. This will enhance the function of this area as a Regional Centre. Employees within the proposed building will contribute significantly to local merchants.

In our opinion, this is an opportunity to provide an alternative floor area ratio in the Central Area. The "H" District provides for four (4) times coverage and the "I" (Central Business District) provides for eleven (11) times coverage. While the subject lands are not in the heart of the Central Business District, they are identified as part of the Central Policy Area with a Regional Centre function. Close proximity to the core of the Central Business District does warrant, in our opinion, consideration of a higher gross floor area ratio.

The proposed seven (7) storey office building, with 5.26 times lot coverage is not, in our opinion, out of character with the proposed function of the Central Policy Area. It provides an alternative floor area ratio between four (4) and eleven (11) times coverage. The developer is also proposing to provide underground parking for thirty (30) cars, which is not required.

The cost of land within the Central Policy Area and the needs of public and private users require that the zoning regulations reflect both the market demand, the function of the Central Policy Area and the desire to maintain an appropriate gradation of density and compatibility with surrounding land uses.

FOR ACTION

REPORT TO:

SUSAN REEDER, SECRETARY
PLANNING AND DEVELOPMENT
COMMITTEE

DATE: March 12, 1990

COMM. FILE:

DEPT. FILE: ZA-90-11

Kennedy

East

Neighbourhood

FROM:

J.D. THOMS, COMMISSIONER
PLANNING AND DEVELOPMENT DEPARTMENT

SUBJECT

Request for a change in zoning - No. 79 Rymal Road West.

RECOMMENDATION

That approval be given to Zoning Application 90-11, Walter Vucetich, owner, for a change in zoning from "C" (Urban Protected Residential, etc.) District to "HH" (Restricted Community Shopping and Commercial) District to permit commercial development for property located at No. 79 Rymal Road West, as shown on the attached map marked as APPENDIX "A", on the following basis:

- i) That the subject lands be rezoned from "C" (Urban Protected Residential, etc.) District to "HH" (Restricted Community Shopping and Commercial) District;
- ii) That the "HH" (Restricted Community Shopping and Commercial) District regulations as contained in Section 14A of Zoning By-law No. 6593 applicable to the subject lands be modified to include the following variance as a special requirement:
 - a) That a minimum 3.0 m wide landscaped planting strip and a visual barrier of not less than 1.2 m and not more than 2.0 m in height shall be provided and maintained along the entire southerly rear lot line;
- iii) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S- , and that the subject lands on Zoning District Maps W-9D and W-9E be notated S- ;
- iv) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Maps W-9D and W-9E for presentation to City Council; and,
- v) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

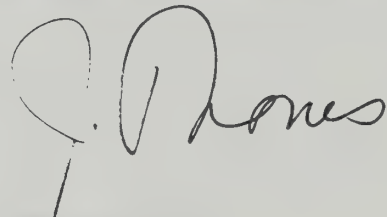
EXPLANATORY NOTE

The purpose of the proposed By-law is to provide for a change in zoning from "C" (Urban Protected Residential, etc.) District to "HH" (Restricted Community Shopping and Commercial) District, modified, for property located at No. 79 Rymal Road West, as shown on the attached key map.

The effect of the By-law is to permit future commercial development for the subject property. In addition, the By-law requires that a minimum 3.0 m wide landscape planting strip and, a visual barrier not less than 1.2 m and not more than 2.0 m in height, be provided and maintained along the southerly rear lot line.



A.L. Georgieff, M.C.I.P.
Director of Local Planning



J.D. Thoms, M.C.I.P.
Commissioner
Planning and Development Department

FINANCIAL IMPLICATIONS

N/A

BACKGROUND

It is the applicant's intention to provide a variety of commercial uses on the property.

Zoning Application 89-71 - 57 Rymal Road West

At its meeting held on October 11, 1989, the Planning and Development Committee recommended approval of Zoning Application 89-71 for a change in zoning from "C" (Urban Protected Residential, etc.) District to "HH" (Restricted Community Shopping and Commercial) District for property located at No. 57 Rymal Road West.

City Council, at its meeting held on October 31, 1989, adopted the recommendation of the Planning and Development Committee.

Zoning Application 89-21 - 35 Rymal Road West

At its meeting held on June 14, 1989, the Planning and Development Committee recommended approval of Zoning Application 89-21 for a change in zoning from "C" (Urban Protected Residential, etc.) District to "HH" (Restricted Community Shopping and Commercial) District for property located at No. 35 Rymal Road West.

City Council, at its meeting held on June 27, 1989, adopted the recommendation of the Planning and Development Committee.

Zoning Application 89-25 - 41 Rymal Road West

At its meeting held on June 14, 1989, the Planning and Development Committee recommended approval of Zoning Application 89-25 for a change in zoning from "C" (Urban Protected Residential, etc.) District to "HH" (Restricted Community Shopping and Commercial) District for property located at No. 41 Rymal Road West.

City Council, at its meeting held on June 27, 1989, adopted the recommendation of the Planning and Development Committee.

APPLICANT

Walter Vucetich, owner.

LOT SIZE AND AREA

The subject property is a rectangular shaped piece of property having:

- 21.34 m (70 feet) of lot frontage along Rymal Road West;
- 60.96 m (200 feet) of lot frontage on Christie Street; and,
- 1,300.6 m² (14,000 square feet) of lot area.

LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	vacant	"C" (Urban Protected Residential, etc.) District
<u>Surrounding Lands</u>		
to the north	vacant	"G-1" (Designed Shopping Centre) District
to the south	single-family residences	"C" (Urban Protected Residential, etc.) District

to the west	single-family residences	"C" (Urban Protected Residential, etc.) District, modified
to the east	single-family residences	"C" (Urban Protected Residential etc.) District

OFFICIAL PLAN

Designated "COMMERCIAL" on Schedule "A" - Land Use Concept of the Official Plan, the proposal complies with the intent of the Official Plan.

NEIGHBOURHOOD PLAN

Designated "COMMERCIAL" on the approved Kennedy East Neighbourhood Plan, the proposal complies with the intent of the plan.

COMMENTS RECEIVED

- The following agencies have no comment or objection:
 - Hamilton Region Conservation Authority; and,
 - Hamilton-Wentworth Regional Police Department.
- The Traffic Department has advised that:

"... we have reviewed the above-noted application and find it satisfactory. The applicant should however be advised that as a result of future roadway improvements on Rymal Road West, access to this site may be restricted to right turn in and out."
- The Building Department has advised that:

"No plans submitted to determine compliance of Zoning By-law No. 6593".
- The Hamilton-Wentworth Engineering Department has advised that:

"The designated road allowance width of Rymal Road is 36.0 m (118.11 feet). Since the intersection of Christie Street, West 5th Street, and Rymal Road could be considered a mid-block collector street, Christie Street from Rymal Road to a point 90 m southerly should be established at 26.21 m (86 feet) with 12.19 m daylight triangles at this intersection. Therefore, we recommend that as a condition of development approval that:

- i) a strip of land 4.8936 m (16.055 feet) in width along the entire frontage on Rymal Road be dedicated to the Region for road widening purposes;
- ii) a strip of land 3.048 m (10 feet) in width be dedicated to the City of Hamilton on the east side of Christie Street from a point taken from the widened limits of Rymal Road to a point 90 metres southerly;
- iii) a 12.19 m x 12.19 m (40' x 40') daylight triangle be dedicated to the Region for road widening purposes. This triangle is to be taken from the intersection of the widened limits of Rymal Road and Christie Street.

In the absence of any details shown, we advise that any works which may occur within the widened limits of these road allowances must conform to the respective street by-laws.

Due to the width of the subject lands, access to this property may be restricted to Christie Street only and should access be granted to Rymal Road, it may be restricted to right turn in and right turn out only due to the presence of concrete median islands on Rymal Road when it is reconstructed and widened. Any roadway improvements required on Rymal Road as a result of this development may be at the sole expense of the applicant/owner and these details will be finalized at the site plan stage.

In order to permit orderly development on this section of Rymal Road and to reduce the number of access points onto Rymal Road, we strongly recommend that these lands be developed in conjunction with lands at No. 71 Rymal Road West and No. 75 Rymal Road West which are to be two remnant residential properties on this section of Rymal Road West."

COMMENTS

1. The proposal complies with the intent of the Official Plan.
2. The proposal complies with the intent of the approved Kennedy East Neighbourhood Plan.
3. The proposal has merit and can be supported for the following reasons:
 - i) it implements the intent of both the Official Plan and the approved Kennedy Neighbourhood Plan;
 - ii) it would be compatible with existing and future intended commercial development along Rymal Road West; and,
 - iii) the requested zoning would be consistent with other commercially zoned land in the surrounding area.

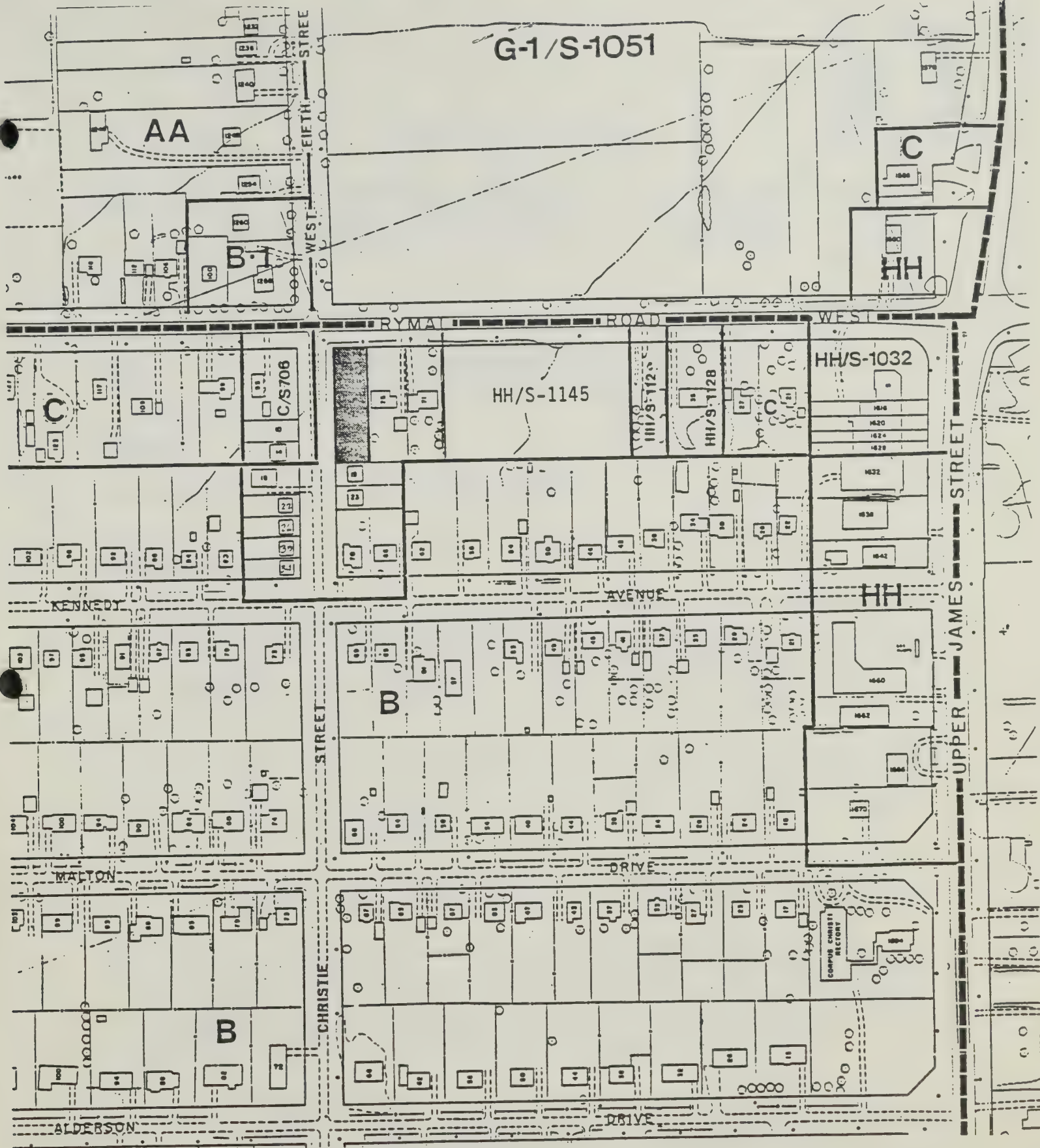
4. The subject lands abut a residential zoning district to the south. In order to properly buffer and screen the proposal from the existing residential uses, a visual barrier of not less than 1.2 m (3.94 feet) and not more than 2.0 m (6.56 feet) high should be provided and maintained along the southerly lot line. In addition, the "HH" District regulations require a rear yard setback of at least 6.0 m (19.69 feet) to be provided. Within this setback, the applicant should be required to provide a landscaped planting strip with a width of at least 3.0 m (9.48 feet) in order to mitigate any possible adverse effect of the proposal on the adjacent residential uses.
5. The Hamilton-Wentworth Engineering Department has advised of land to be dedicated to both the Region and the City for road widening purposes. In addition, the Department has advised that the applicant should be aware access to the property may be restricted, and the applicant may be required to contribute financially for these road works.

As the "HH" (Restricted Community Shopping and Commercial) District is subject to Site Plan Control By-law 79-275 as amended by By-law 87-223, these and other matters (e.g. access, landscaping, and parking) will be dealt with during the Site Plan approval stage.

CONCLUSION

Based on the foregoing, the application can be supported.

MLT/ma
WPZA9011



LEGEND



SITE OF THE APPLICATION



FOR ACTION

10.

REPORT TO:

SUSAN REEDER, SECRETARY
PLANNING AND DEVELOPMENT
COMMITTEE

DATE: March 13, 1990

COMM. FILE:

DEPT. FILE:

ZA-90-04
Crown Point
West
Neighbourhood

FROM:

J.D. THOMS, COMMISSIONER
PLANNING AND DEVELOPMENT DEPARTMENT

SUBJECT:

Further Modification in Zoning - No. 1039 Main Street East.

RECOMMENDATIONS:

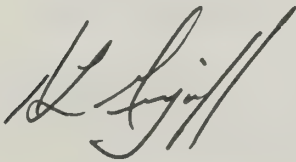
- 1) That Zoning Application 90-04, Serge Gelly, owner, requesting a further modification to the "E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District, to permit the conversion of the front porch of the existing building to an office for a home improvement business and to permit a ground sign, for the property located at No. 1039 Main Street East, as shown on the attached map marked as APPENDIX "A", be DENIED in part for the following reasons:
 - i) the proposed ground sign would be out of character with the existing signage in the area. The Zoning by-law allows only one sign having an area of 0.4 m² (4.31 sq.ft.) whereas the applicant proposes a ground sign approximately 2.4 m² (26 sq. ft.) in area and 2.4 m in height.
 - ii) Approval of the application would encourage other similar applications which, if approved, would undermine the intent of the sign requirements in the Zoning By-law.
- 2) That approval be given to an amended Zoning Application 90-04, Serge Gelly, owner, requesting a further modification to the "E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District, to permit the conversion of the front porch of the existing building to an office for a home improvement business, for the property located at No. 1039 Main Street East, as shown on the attached map marked as APPENDIX "A", on the following basis:
 - i) That the "E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations, as contained in Section 11A of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following variance as a special requirement:
 - a) That notwithstanding Sections 11A(1), 11A(3), 11A(5), and 11A(6), enclosure of the existing roofed-over side and front porch of the existing building for use as a home improvement business office shall be permitted.

- ii) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S- , and that the subject lands on Zoning District E-44 be notated S- ;
- iii) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-44 for presentation to City Council;
- iv) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

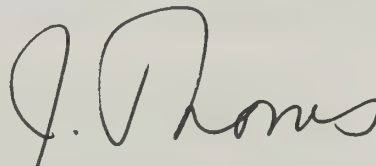
EXPLANATORY NOTE:

The purpose of the by-law is to permit a further modification to the "E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District for the property located at No. 1039 Main Street East, as shown on the attached map.

The effect of the by-law is to permit the enclosure of the existing front and side porch of the existing building (51.3 m²) for an office for a home improvement business.



A.L. Georgieff, M.C.I.P.
Director of Local Planning



J.D. Thoms, M.C.I.P.
Commissioner
Planning and Development Department

APPLICANT:

Serge Gelly, owner.

BACKGROUND:

The applicant has advised there are 3 dwelling units, one in the basement, ground floor and second floor each having a floor area of 71.53 m² (770 sq.ft.).

LOT SIZE AND AREA:

- 14.3 m (47 ft.) of lot frontage on Main Street East;
- 36.8 m (121 ft.) of lot depth; and,
- 528.3 m² (568.7 sq. ft.) of lot area.

LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	three-family dwelling	"E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District
<u>Surrounding Lands</u>		
to the north	single and two-family dwellings	"D" (Urban Protected Residential - One and Two Family Dwellings, Townhouses etc.) District
to the south	Gage Park	"D" (Urban Protected Residential - One and Two Family Dwellings, Townhouses, etc.) District
to the east and west	three-family dwellings, multiple dwellings, mixed commercial/residential	"E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District

OFFICIAL PLAN:

The subject lands are designated "COMMERCIAL" on Schedule "A". The following policies apply, among others:

- "A.2.2.1 The primary uses permitted in the areas exceeding .4 hectare designated on Schedule "A" as COMMERCIAL will be for Commerce. In this regard, Commerce is defined as establishments involved in the buying and selling of goods and services; business offices; and hotels, convention and entertainment facilities. In addition to

the primary permitted uses, the following may be permitted within COMMERCIAL areas provided that they have been designated in the Neighbourhood Plan:

- i) Residential uses subject to the following provisions:
 - a) access drive and parking will be screened and/or buffered such that noise, light or undesirable visual impacts emanating from neighbouring COMMERCIAL USES are mitigated;
 - b) any impacts emanating from adjacent COMMERCIAL USES which will detract from the amenity of the Residential Use will be minimized;"

Based on the above noted policies, the proposal does not conflict with the intent of the Plan.

NEIGHBOURHOOD PLAN:

The subject lands are designated "Commercial Conversion and Low Density Apartments" in the approved Crown Point West Neighbourhood Plan. The proposal does not conflict with the intent of the Plan.

RESULTS OF CIRCULARIZATION:

- The following Departments and agencies have no comments or objections:

- LACAC;
- Traffic;
- Regional Police; and,
- Hamilton Region Conservation Authority.

- The Hamilton-Wentworth Engineering Department has advised in part that:

"We have reviewed our road widening requirements and due to the one-way street system etc., we do not anticipate any further road allowance widenings at this time.

Any works within the adjacent road allowances must conform to the respective streets by-laws and further details can be dealt with under site plan control. Landscape plant boxes etc., within the road allowance require agreements with the City/Region. In the absence of any details shown, we advise that off street parking should be designed to provide adequate sight distances for motorist entering the street etc."

- The Building Department has advised:

"1. Our records indicate two dwelling units only.

2. To permit three dwelling units, it would be subject to the conversion requirements of Section 19 of By-law 6593.
3. An office is permitted only within the existing building.
4. The enclosure of the existing porch would not be considered reasonably necessary for the use of the building for offices.
5. The porch enclosure is considered an addition, therefore is subject to the setback requirements, landscaped area and floor area ratio of Section 11A of By-law 6593 for other buildings.
6. A three family dwelling requires four (4) parking spaces located on the lot and not in the required front yard.
7. A sign for the office use is subject to 11A.(1)(iv) of By-law 6593.
8. Any changes to the building are subject to the requirements for The Ontario Building Code."

COMMENTS:

- 1) The proposal complies with the intent of the Official Plan and approved Crown Point West Neighbourhood Plan.
- 2) The applicant proposes to place a ground sign, 4.8 m² in area, in the front of the building. The Building Department has advised that the actual area of the sign is 2.4 m² (26 sq. ft.) which is calculated solely on the area of the sign face and does not include the base. The proposed ground sign cannot be supported for the following reasons:
 - i) It would be out of character with the existing signage in the area. The Zoning by-law allows only one sign having an area of 0.4 m² (4.31 sq.ft.) whereas the applicant proposes a ground sign 2.4 m in height and approximately 2.4 m² (26 sq. ft.) in area.
 - ii) Approval of the application would encourage other similar applications which, if approved, would undermine the intent of the sign requirements in the Zoning By-law.
- 3) The proposal has merit and warrants consideration for the following reasons:
 - a) an office for a home improvement business is no less feasible than other uses permitted within the "E-1" District (ie. photographer's studio, optometrist);
 - b) it complements the mixed use nature of the surrounding commercial/residential uses;

- c) it is located on a major arterial road (Main Street East); and,
 - d) it implements the intent of the Official Plan and Neighbourhood Plan.
- 5) The applicant has indicated that the building contains three dwelling units. According to the Building Department's records, there are only two units legally established. It should be noted that the basement unit may not comply to the Building Code regulations (ie. height of ceiling). Detailed plans would have to be submitted for the Building Department's review.

In addition, the applicant should be advised that depending on the design of the enclosed porch certain Building Code standards (e.g. ventilation, natural light) may be affected for the dwelling unit on the first floor. Compliance to the Building Code Act will be determined at the time plans are submitted for a Building Permit.

- 5) Under the "E-1" District regulations, the lands are subject to Site Plan Control By-Law 79-275, as amended by 87-223. Matters such as parking, access etc. will be dealt with during the site plan approval process.

CONCLUSION:

Based on the foregoing, the amended proposal can be supported.

JHE/ma
WPZA9004

FOR ACTION

REPORT TO:

SUSAN REEDER, SECRETARY
PLANNING AND DEVELOPMENT
COMMITTEE

DATE: March 12, 1990

COMM. FILE:

DEPT. FILE: ZA-90-10

Glenview East
Neighbourhood

FROM:

J.D THOMS, COMMISSIONER
PLANNING AND DEVELOPMENT DEPARTMENT

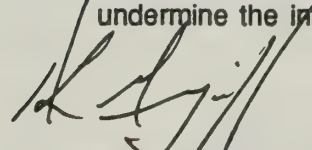
SUBJECT:

Request for a modification of zoning - Nos. 314 to 318 Queenston Road.

RECOMMENDATION:

That Zoning Application 90-10, V. Baotic, applicant and part owner, requesting a modification to the established "H" (Community Shopping and Commercial, etc.) District regulations to permit a public hall (banquet hall) and a billiard room or penny arcade in the basement of the existing commercial plaza located at Nos. 314 to 318 Queenston Road, as shown on the attached map marked as APPENDIX "A" be DENIED for the following reasons:

1. It conflicts with the intent of the Official Plan and represents an over-intensification of use, in that adequate parking cannot be provided. Approval of the application could lead to nuisances associated with on-street parking in the surrounding residential area.
2. It conflicts with the intent of By-law 78-184 which specifically excludes, among other uses, billiard rooms, penny arcades, public halls, etc. from the "H" District due to nuisance factors and spill-over effects associated with such uses (e.g. noise, parking, headlight glare, etc.) on adjoining residential areas.
3. It conflicts with the intent of Council adopted policy respecting the criteria used to evaluate the merits of applications to permit penny arcades, in that two schools are situated less than 1000 feet from the subject property.
4. Approval of the application would encourage other similar applications which, if approved, would undermine the intent of the Zoning By-law.


A.L. Georgieff, M.C.I.P.
Director of Local Planning


J.D. Thoms, M.C.I.P.
Commissioner
Planning and Development Department

FINANCIAL IMPLICATIONS

N/A

BACKGROUND

- Proposal

It is the applicants intention to convert the basement (4,614.sq.ft.) of the existing commercial building to be used for either a public hall, billiard room or a penny arcade (see APPENDIX "B").

- By-law 78-184

On July 28, 1978, City Council passed By-law No. 78-184 which removed, among other uses, public halls (banquet halls) as a permitted use within the "H" (Community Shopping and Commercial, etc.) District. Public halls existing at the date of passing of the By-law were allowed to continue under the By-law. The By-law received Ontario Municipal Board approval on April 6, 1979.

Public halls, penny arcades, etc. were removed from the "H" District to provide a means of controlling this type of use, primarily in strip commercial locations normally situated in close proximity to established residential development where problems related to noise, parking, loading, etc. are generated.

- Committee of Adjustment

At its meeting held on September 20, 1989 the Committee of Adjustment considered and approved Minor Variance Application A-250/89 to permit the establishment of a restaurant use within the existing strip plaza notwithstanding that:

1. access driveways to the parking area are as close as 0.0 m to the nearest residentially zoned lands instead of 30.0 m away; and,
2. a 1.5 m wide landscape strip will not be provided to Adain Avenue and Queenston Road.

APPLICANT:

Vladimir Baotic, applicant/agent and part owner.

LOT SIZE AND AREA

- 51.51 m (169.0 ft.) of lot frontage on Queenston Road;
- 28.65 m (93.99 ft.) average lot depth; and,
- 1,400 m² (15,500 sq.ft.) of lot area.

LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	commercial strip plaza	"H" (Community Shopping and Commercial, etc.) District
<u>Surrounding Lands</u>		
to the north	commercial and single-family residential uses	"H" (Community Shopping and Commercial, etc.) District
to the south	single-family dwellings	"C" (Urban Protected Residential, etc.) District
to the east	a single-family dwelling and commercial uses	"H" (Community Shopping and Commercial, etc.) District
to the west	public garage	"H" (Community Shopping and Commercial, etc.) District

OFFICIAL PLAN

Designated "Commercial" on Schedule "A" - Land Use Concept Plan of the Official Plan and subject to, among others, the following policies:

- "A.2.2.1 The primary uses permitted in the areas exceeding .4 hectare designated on Schedule "A" as COMMERCIAL will be for Commerce. In this regard, Commerce is defined as establishments involved in the buying and selling of goods and services; business offices and hotels, convention and entertainment facilities.

- A.2.2.14 The EXTENDED COMMERCIAL category applies to existing stretches of individually managed Commercial establishments located along Arterial Roads, serving both pedestrian and automobile borne trade. It consists of:
- i) Ribbon Commercial uses on smaller lots serving predominantly residents and pedestrians in the vicinity with some specialized commercial uses attracting automobile borne traffic from beyond the local area.
- A.2.2.19 Development within EXTENDED COMMERCIAL areas will be through infilling and redevelopment in order to consolidate the viability of these areas and to restrict their indiscriminate extension into stable areas of the non-commercial uses. Such development will only be permitted where traffic and/or parking problems will not be created and subject to the approval of the Region.
- A.2.2.36 In addition to the provisions of Subsection B.3.3 of this plan, adequate parking and loading space will be required in clearly defined areas for all development and redevelopment within the COMMERCIAL designation and will include adequate space for owners, employees, customers and delivery vehicles. Council will require that, in all normal circumstances, a high standard of parking and loading facilities will be maintained in accordance with current practices.
- A.2.2.37 Where a proposal is made for a COMMERCIAL development in which proposed parking and/or loading space is less than generally required, it must be demonstrated by the proponent to the satisfaction of Council that the proposal will not lead to nuisances through the parking or loading of vehicles on land or streets adjacent to the use".

The proposal conflicts with the intent of the Official Plan, however, if approved an Official Plan Amendment is not required.

NEIGHBOURHOOD PLAN

A Neighbourhood Plan is not available for the Glenview East Neighbourhood.

COMMENTS RECEIVED

- The Building Department has advised that:
 "The uses are not allowed in the zone."

- The Traffic Department has advised that:

"We strongly oppose allowing the uses proposed in this application. The proposed uses (a banquet hall, a poolroom, a pinball machine business) are high traffic generators which would require a substantial amount of parking. The site plan shows only 11 parking spaces for the entire site which is totally inadequate."
- To-date, no comments have been received from the Hamilton-Wentworth Engineering Department.
- The Hamilton-Wentworth Regional Police Department and the Hamilton Region Conservation Authority have no comments or objections.

COMMENTS

1. The proposal conflicts with the intent of the Official Plan, however, if approved an Official Plan Amendment is not required.
2. The application cannot be supported for the following reasons:
 - i) it conflicts with the intent of the Official Plan, in that adequate parking cannot be provided on site. Approval of the application could lead to nuisances associated with on-street parking in the surrounding residential area;
 - ii) the proposal represents an over-intensification of use, in that adequate parking cannot be provided. In this regard, the Traffic Department has advised that the proposed uses are "high traffic generators" and the proposed parking (11 spaces) is inadequate. Furthermore, depending upon the occupancy of the floor space, a minimum of 7 additional parking spaces would be required for a billiard room/penny arcade, and a minimum of 83 additional parking spaces would be required for a public hall use. No additional parking is proposed;
 - iii) the proposal conflicts with the intent of By-law 78-184 which specifically excluded, among other uses, billiard rooms, penny arcades, public halls, etc. from the "H" District due to nuisance factors and spill-over effects associated with such uses (e.g. noise, parking, headlight glare, etc.), on adjoining residential areas;
 - iv) the inclusion of a penny arcade conflicts with Council adopted policy respecting the criteria to be used to evaluate the merits of applications to permit a penny arcade in the "I" District, which are no less feasible for the "H" District. More specifically, it is intended to prohibit the location of penny arcades within 1000 feet of any public/separate elementary or secondary school. In this regard, Glenview Public School is located approximately 225 feet to the south, St. Eogenes Separate School is about 600 feet to

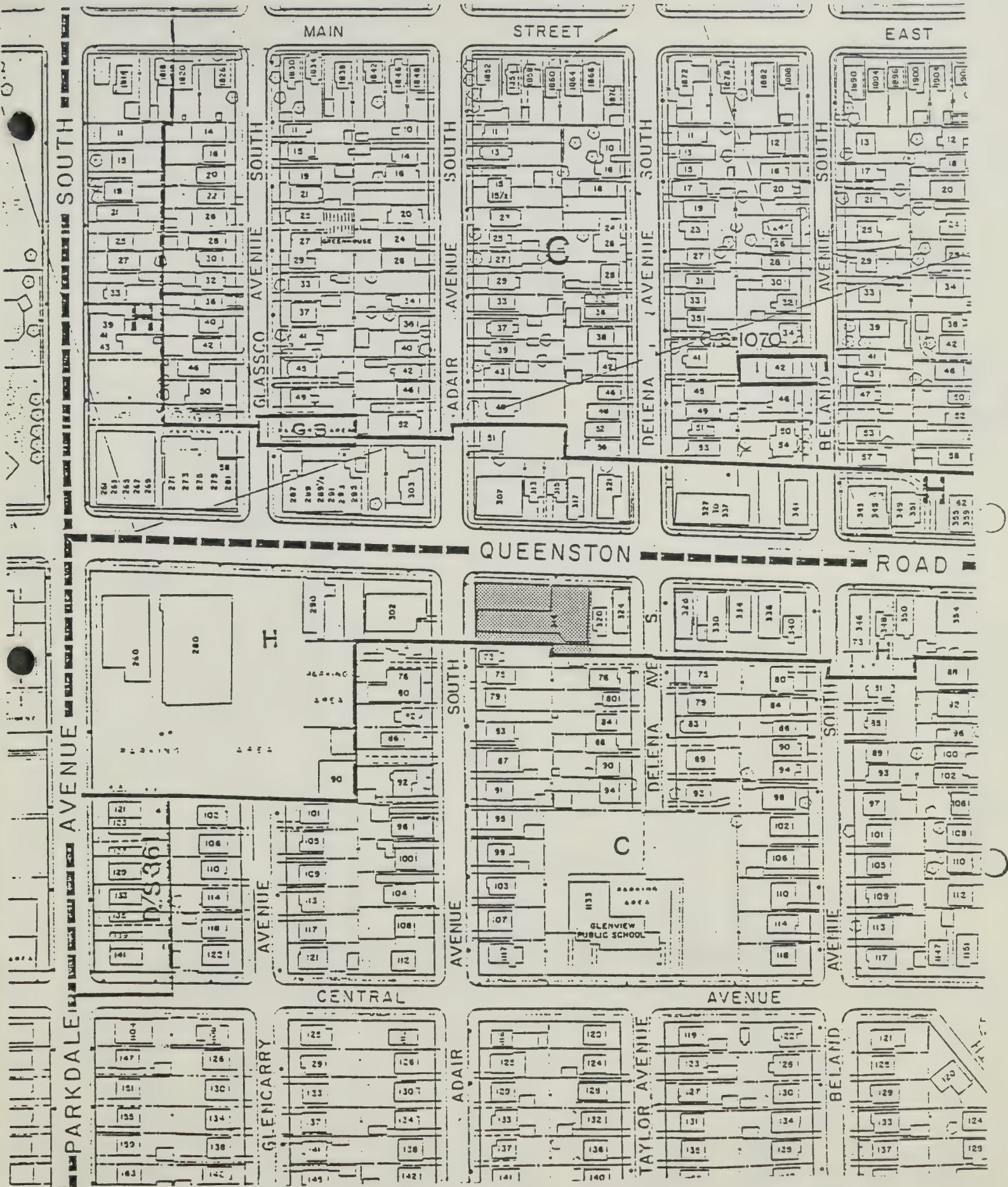
the west, and others (e.g. Bishop Ryan High School, Viscount Montgomery Public School) are within close proximity; and

- v) approval of the application would encourage other similar applications which, if approved, would undermine the intent of the Zoning By-law.

CONCLUSION

On the basis of the foregoing, the application cannot be supported.

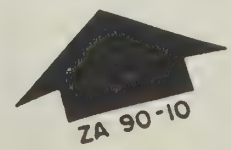
GAW/ma
WPZA9010



Legend



Site of the Application



APPENDIX A

98.60

98.62

98.69

SITE BENCH MARK
ICC ON SIDEWALK 98.86

DEVELOPER
CITY OF
BY 9-21
FOAL E-2

99.05

ADAIR AVE

EXIST. BUILDING
NEW PRECAST CONC.
CURB & CHAIN LINK
FENCE (N.I.C.)

EXIST. BUILDING

NEW PRECAST CONC.
CURB & CHAIN LINK
FENCE (N.I.C.)

EXIST. CONC. 1' FT
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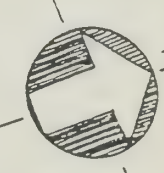
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FENCE (N.I.C.)

EXIST. CONC. 1' FT
WALL & CHAIN LINK
FENCE (N.I.C.)

QUEENSTON RD.

SITE PLAN
SCALE 1:200





EDNA & ALF BRYANT
106 BELAND AVE SOUTH
HAMILTON ONT
L8K 3T3

May 8/90

Planning + Development
Committee
Hamilton

11a.

Dear Sirs

Re proposed change 314-318
Queenston Rd. **ZA90-10**

It does not appear that any
thought has been given for parking
to accommodate for the proposed
change. This would mean local
streets will become a parking lot
for this business.

The same thing happens on
Beland Ave S. ~~road~~ when the restaurant
at the corner of Beland & Queenston Rd
has a busy meal time. We feel the
owner should provide parking for his
customers.

Edna & Alf Bryant

FOR ACTION

12.

REPORT TO SUSAN REEDER, SECRETARY
PLANNING AND DEVELOPMENT
COMMITTEE

DATE: 1990 March 13
COMM. FILE:
DEPT. FILE: CI-89-E

FROM J.D. THOMS, COMMISSIONER
PLANNING AND DEVELOPMENT DEPARTMENT

SUBJECT

Regulation of Gun Shops.

RECOMMENDATION

That the Planning and Development Committee authorize a public meeting in accordance with the requirements of the Planning Act to consider the following changes to Zoning By-law No. 6593 regarding the regulation of gun shops:

- i) That Section 18 of Zoning By-law No. 6593 be amended by adding a new subsection to the following effect:

SPECIAL REQUIREMENTS FOR ESTABLISHMENTS SELLING/REPAIRING FIREARMS

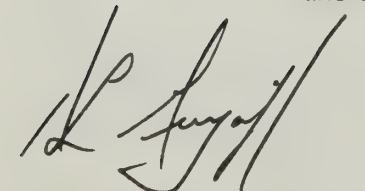
- (12) Notwithstanding any provisions of the By-law, any retail store, second hand goods store, pawnbroker's shop, or gunsmith shop used for the sale and/or repair of firearms shall comply with the following:

- a) Display

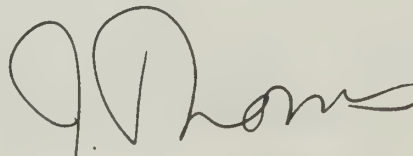
No window display of firearms shall be permitted.

- b) Location Requirement

A minimum radial separation distance of 300 m shall be provided from the lot line to the lot line of any school.



A.L. Georgieff, M.C.I.P.
Director of Local Planning



J.D. Thoms, M.C.I.P.
Commissioner
Planning and Development Department

FINANCIAL IMPLICATIONS

N/A

PROBLEM

This review of the regulation of gun shops was prompted by citizens' concerns over the location of a new gun shop in the Kirkendall North Neighbourhood. The issue was raised at the Planning and Development Committee meeting of June 14, 1989. The Committee received a delegation from the community expressing their concerns over the location of a gun shop near a residential area. The concerns raised by the citizens relate to the fact that children may be viewing guns on display in the shop and the possible effects this will have on the children. Compounding this problem is the number of schools in the neighbourhood (three) and the proximity of the shop to residential areas. The Kirkendall North Neighbourhood is primarily residential in nature; the neighbourhood also has industrially zoned land which comprises approximately the western third of the neighbourhood.

The Committee recommended that a Planning Review of Zoning By-law No. 6593 concerning the Location of Gun Shops in the City of Hamilton be conducted.

BACKGROUND

Zoning By-law No. 6593 currently does not define a gun shop as separate and distinct from other retail uses. Gun shops are permitted as-of-right in a broad range of zoning districts under several definitions of use. As advised by the Building Department, the following is a list of permitted uses and zoning districts which are applicable to gun shops.

<u>Use</u>	<u>Zoning Districts</u>
Retail Store	"G-1" (Designed Shopping Centre) District "G-2" (Regional Shopping Centre) District "H" (Community Shopping and Commercial, etc.) District "HH" (Restricted Community Shopping and Commercial, etc.) District "I" (Central Business, etc.) District "J" (Light and Limited Heavy Industry, etc.) District "K" (Heavy Industry, etc.) District
Retail Store (restricted to new goods)	"G" (Neighbourhood Shopping Centre, etc.) District "G-4" (Designed Neighbourhood Shopping Area) District "HI" (Civic Centre Protected) District "CR-1" (Commercial-Residential) District "CR-2" (Commercial-Residential) District "CR-3" (Commercial-Residential) District

Second Hand Goods Store	"J"	(Light and Limited Heavy Industry, etc.) District
	"K"	(Heavy Industry, etc.) District
	"M-11"	(Prestige Industrial) District
Second Hand Goods Store (provided that all display, sale and storage are within the principal building)	"G-1"	(Designed Shopping Centre) District
	"G-2"	(Regional Shopping Centre) District
	"H"	(Community Shopping and Commercial, etc.) District
	"HH"	(Restricted Community Shopping and Commercial, etc.) District
	"I"	(Central Business, etc.) District
	"M-12"	(Prestige Industrial) District
	"M-13"	(Prestige Industrial) District
Pawnbroker's Shop	"G-2"	(Regional Shopping Centre) District
	"H"	(Community Shopping and Commercial, etc.) District
	"HH"	(Restricted Community Shopping and Commercial, etc.) District
	"I"	(Central Business, etc.) District
	"J"	(Light and Limited Heavy Industry, etc.) District
	"K"	(Heavy Industry, etc.) District
	"M-11"	(Prestige Industrial) District
Gunsmith Shop	"G-2"	(Regional Shopping Centre) District
	"H"	(Community Shopping and Commercial, etc.) District
	"HH"	(Restricted Community Shopping and Commercial, etc.) District
	"I"	(Central Business, etc.) District
	"J"	(Light and Limited Heavy Industry, etc.) District
	"K"	(Heavy Industry, etc.) District
	"M-12"	(Prestige Industrial) District
	"M-14"	(Prestige Industrial) District
	"M-15"	(Prestige Industrial) District

LICENSING ISSUES

Licensing of gun shops is regulated by the federal government and all businesses that sell firearms or ammunition must comply with these regulations. The regulations include an inspection prior to the commencement of operation, security standards, transaction records, and reference checks on all owners. All gun shops must acquire a license for operation prior to the commencement of operation.

Pawn shops, second hand stores, and hardware stores may sell firearms in addition to other goods. In this case, that portion of the business that sells the firearms or ammunition is also subject to federal regulations and must acquire a federal license. The portion of the business not dealing in

firearms or ammunition is licensed by the City of Hamilton. The City's Licensing Administrator has advised that the applicants for licenses of pawn shops or second hand goods stores are also screened to ensure, as much as is possible, the character of the applicant and the legitimacy of the business.

It should be noted that the federal regulations are stringent in terms of who may operate a gun shop and the manner in which a gun shop is run. In this regard, only those weapons in the non-restricted category of firearms may be displayed in a store window. The regulations also require locked storage of all weapons and a burglar alarm system for those businesses selling restricted weapons. Restricted weapons are defined by federal regulations and generally include both semi-automatic and automatic firing guns as well as guns aimed and fired by one hand.

The federal regulations are quite stringent regarding the sale of weapons and should not be interfered with in any manner by the City's Zoning By-law; rather, the Zoning By-law should deal specifically with the location of gun shops. Operational regulations of gun shops are solely a matter of federal jurisdiction.

INFORMATION FROM OTHER MUNICIPALITIES

Eight other municipalities were surveyed for information about zoning regulations pertinent to gun shops. The municipalities surveyed were: City of Burlington, City of London, City of Mississauga, Town of Oakville, City of Oshawa, City of Scarborough, City of Stoney Creek, and the City of Toronto. Information was obtained from each municipality with respect to the zoning districts in which gun shops are permitted as-of-right, and whether or not the municipality has any special regulations regarding their location.

Table 1 summarizes the information obtained from the eight municipalities. All of the municipalities contacted permit gun shops in a broad range of zoning districts. The City of Oshawa is the exception and does not permit gun shops in a "C-4" zone which is intended for large item retail uses such as furniture, cars, and lumber. This restriction is not exclusive to the sale of firearms but relates to all smaller item retail uses. All other municipalities surveyed permit gun shops in all commercial zones, mixed use zones that allow commercial use, and industrial zones. This is the same situation as the current City of Hamilton Zoning By-law.

None of the municipalities contacted have any special regulations regarding the location of gun shops. The City of Toronto requires a 3 m (10 feet) setback from any residential district boundary for commercial and industrial use. This regulation is not specific to gun shops but relates to all commercial and industrial uses. The survey of the eight other municipalities indicates that the current regulations of the City's Zoning By-law are consistent with other municipalities in terms of location and regulation of gun shops.

GUN SHOPS IN HAMILTON

The Chief Provincial Firearms Office has advised that there are fourteen businesses dealing in the sale of firearms in the City of Hamilton (see Table Two). Of these shops, six (Technical Security

Systems, G.W. Thompson Company, Vantasy Vans, Netherwood Bullet Manufacturing, Davies Coins and Collectibles, and Al Simmons Gun Shop) are also licensed to sell restricted weapons.

The Police Department has also advised that, until recently, there had been no incidents of crimes committed at the location of the gun shops in the City of Hamilton. On February 24, 1990, a break-in occurred at Al Simmons Gun Shop at 122 Locke Street South. Regional Police arrested the suspected perpetrator as he emerged from the shop. This is the first and only incident of crime occurring at a gun shop in the City of Hamilton, according to the Regional Police Department. The Building Department has advised that they have no record of complaints filed regarding the operation of any gun shops in the City. The Licensing Administrator has advised that apart from the gun shop on Locke Street, no complaints have been filed regarding gun shops.

COMMENTS

The following is a list of potential options regarding the regulation of gun shops:

i) Window Display

The residents of the Kirkendall North Neighbourhood raised concerns about children viewing weapons in a window display in a gun shop. Current federal regulations prohibit the window display of restricted weapons; only non-restricted weapons may be placed on display, however, they must be securely locked (e.g. cable, chain). The Chief Provincial Firearms Office has advised that they encourage gun shop operators not to provide window displays and most of them voluntarily comply.

Given the concern of the area residents, the By-law could be amended to prohibit display of weapons which can be seen from the street. This type of restriction is similarly used for home occupations as well as for the commercial conversions in the "E-1" (Multiple Dwellings, Lodges, Clubs etc.) District under the current regulations of the Zoning By-law.

ii) Removal from the "H" District

Eight of the gun shops within the City of Hamilton (including the one on Locke Street South) are located within the "H" (Community Shopping and Commercial, etc.) District. The "H" District is a commercial district which typically fronts onto arterial roads (e.g. King Street, Locke Street, James Street). The "H" District is generally used in the lower city (the "HH" (Restricted Community Shopping and Commercial) District is used for commercial areas on arterial roads for that portion of the City above the Escarpment). The "H" District is located at the periphery of neighbourhoods. Typically, single-family residential development adjoins the rear of the "H" zoned property.

The effect of this option would be to render eight of the fourteen existing gun shops in the "H" District as legal non-conforming uses. Any future proposals to locate a gun shop in an "H" District would necessitate an application for a zoning modification, including notification for and the holding of a Public Meeting in accordance with the requirements of the Planning Act.

iii) Separation Distance

One of the main concerns voiced to the Planning and Development Committee is the effect the presence of a gun shop may have on children, especially in proximity to a school. While there is no evidence regarding such impact, a regulation similar to that undertaken for penny arcades could be implemented. Specifically, Council has an adopted policy respecting criteria for the location of penny arcades. One of these criteria prohibits a penny arcade from being located within 300 m (1,000 feet) of any public or separate, elementary or secondary school. A similar standard could be applied to gun shops.

With respect to the gun shops in the City of Hamilton, seven of the fourteen gun shops are within 300 m of a school. Should Council choose to pursue this option, these seven shops would become legal non-conforming uses. Any future proposals to locate a gun shop within 300 m of a school would require either an application for a minor variance or a site specific zoning application. Both procedures would require Public Notification in accordance with the respective requirements of the Planning Act.

iv) Shopping Centres and Industrial Areas

Many of the commercial districts in the Zoning By-law (e.g. "H", "HH", "I", "CR") typically adjoin residential districts or contain mixed residential and commercial uses. Council may wish to prohibit the location of a gun shop near a residential area by permitting gun shops in industrially zoned areas and shopping centres only. This would permit gun shops only in the following districts:

- "G-1" (Designed Shopping Centre) District
- "G-2" (Regional Shopping Centre) District
- "G-4" (Designed Neighbourhood Shopping Area) District
- "J" (Light and Limited Heavy Industry, etc.) District
- "JJ" (Restricted Light Industrial) District
- "K" (Heavy Industry, etc.) District
- "KK" (Restricted Heavy Industrial) District
- "M-11" (Prestige Industrial) District
- "M-12" (Prestige Industrial) District
- "M-13" (Prestige Industrial) District
- "M-14" (Prestige Industrial) District
- "M-15" (Prestige Industrial) District

Only five of the gun shops within the City of Hamilton are in the above zoning districts. The remaining nine gun shops, if these changes were implemented, would become legal non-conforming uses. Any future proposals to locate a gun shop in other zoning districts (e.g. "H", "HH") would require a site specific zoning amendment. In accordance with the requirements of the Planning Act, a Public Meeting would have to be held.

v) Prohibit Gun Shops

The sale of firearms could be prohibited under the Zoning By-law. The effect of this option would be to render all fourteen of the existing operations legal non-conforming. Any future proposals to establish a new gun shop or relocate an existing one would require a site specific zoning amendment. In accordance with the requirements of the Planning Act, a Public Meeting would have to be held to consider an application.

There is little evidence to indicate that, in the City of Hamilton, the typical spill-over problems associated with a noxious land use (i.e. traffic, noise, litter, pollution, etc.) are identified with the operation of a gun shop. Furthermore, given the stringent licensing regulations governing the operation of gun shops it is anticipated that their safe record of operation will continue. The residents' main concern relates to the influence the presence of a gunshop may have on their children, especially in close proximity to a school. This matter has a social concern rather than a land use problem. There is no evidence to indicate that the presence of a gun shop has any detrimental effect on children, or the surrounding residential neighbourhood. However, given the concerns of these residents, the following changes to the Zoning By-law could be considered appropriate:

- i) That no window display of firearms shall be permitted. Considering that such uses are specialized and not reliant on walk-in trade, such a regulation should not unduly affect the business operation.
- ii) That a minimum separation distance of 300 m (1,000 feet) be required between the location of any gun shop and a school.

In order to implement the foregoing By-law changes a Public Meeting will have to be held in accordance with the requirements of the Planning Act.

CONCLUSION

Based on the foregoing, a public meeting should be authorized to consider the proposed By-law changes.

MLT:ma
WPCI89E

Table One - Review of Gun Shop By-laws

Municipality	Where Permitted	Special Regulations
Burlington	all commercial zones mixed use permitting commercial industrial	none
London	all commercial zones mixed use permitting commercial industrial	none
Mississauga	all commercial zones mixed use permitting commercial industrial	none
Oakville	all commercial zones mixed use permitting commercial industrial	none
Scarborough	all commercial zones mixed use permitting commercial industrial	none
Oshawa	all commercial zones except "C-4" (large item retail i.e. cars, lumber, furniture) mixed use permitting commercial industrial	none
Stoney Creek	all commercial zones mixed use permitting commercial industrial	none
City of Toronto	all commercial zones mixed use zones industrial zones	3 metre setback from residential district boundary

Table Two - Gun Shops In Hamilton

Business Name	Location	Zoning District
Al Simmons Gun Shop	122 Locke Street South	"H" (Community Shopping and Commercial, etc.) District
Technical Security Services	1333 Rymal Road East	"M-11" (Prestige Industrial) District
G.W. Thompson Company	191 King Street East	"I" (Central Business, etc.) District
Vantasy Vans	601 King Street East	"H" (Community Shopping and Commercial, etc.) District
Davies Coins and Collectibles	1279 Main Street East	"H" (Community Shopping and Commercial, etc.) District
Netherwood Bullet Manufacturing	80 Hempstead Drive	"M-14" (Prestige Industrial) District
McVey's Sales	583 Barton Street East	"H" (Community Shopping and Commercial, etc.) District
Rod and Gun	96 Kenilworth Avenue North	"H" (Community Shopping and Commercial, etc.) District
H. Williams and Company	138 James Street North	"H" (Community Shopping and Commercial, etc.) District
Adams Warehouse	193 Cavell Street	"JJ" (Restricted Light Industrial) District
Canadian Tire	1089 Barton Street East	"H" (Community Shopping and Commercial, etc.) District
Canadian Tire	304 Main Street East	"H" (Community Shopping and Commercial, etc.) District
Canadian Tire	777 Upper James Street	"G-1" (Designed Shopping Centre) District
Canadian Tire	601 Upper Gage Street	"G-1" (Designed Shopping Centre) District

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J.J. SCHATZ
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OFFICE OF THE CITY CLERK

CITY HALL
HAMILTON, ONTARIO
L8N 3T4

TEL: 546-2700
FAX: 546-2095

1990 March 26th

Mr. E. W. Kowalski, Director of Community Development
Mr. S. Ghanem, Director of Economic Development
Mr. T. Gill, Acting Engineering Commissioner
Attention: Mr. K. Brenner
Mr. M. Main, Director of Traffic Services
Mr. R. Karl, Traffic Department
Ms. Diana Pasko, Planning Department
Mr. E.G. Beres, Regional Assessment Commissioner
Urban Municipal Librarian, Central Library

Attached herewith are the minutes of the Planning and Development Committee meeting held Wednesday, 1990 February 21st.

These minutes were approved by the Committee at its meeting held Wednesday, 1990 March 21st.

Yours very truly,

Susan K. Reeder

Mrs. Susan K. Reeder, Secretary
Planning and Development Committee

SKR:dbm
Attch.

c.c.'s - Manager, C.M.H.C.
- Hamilton & District Chamber of Commerce
Attention: Kathy Drewitt
- Mr. V. Mauceri, Manager, Research Dept., H.S.R.
- Mr. Paul E. Shewfelt, Board of Education
- Mr. Douglas Kelterborn, Board of Education
- Mr. T. Cupido, Superintendent of Plant,
Hamilton Separate School Board
- Mr. M. D. Crowley, Southam Communications Ltd.
- Mr. D. Miller, Canada Life, London, Ontario
- Durand Neighbourhood, c/o Ruth Morrison
- Mr. Rob Hager, Research Statistician, Oshawa Foods

Wednesday, 1990 February 21
9:00 o'clock a.m.
Room 233, City Hall

The Planning and Development Committee met.

There were present: Alderman J. Smith, Chairman
Alderman F. Lombardo, Vice-Chairman
Mayor Robert M. Morrow
Alderman M. Kiss
Alderman D. Christopherson
Alderman D. Ross
Alderman H. Merling
Alderman D. Drury

Regrets: Alderman W. McCulloch - Vacation

Also present: Alderman B. Hinkley
Mr. L. Sage, Chief Administrative Officer
Mr. J. Thoms, Commissioner of Planning and
Development
Mr. A. Georgieff, Director of Local Planning
Mr. J. Swartz, Regional Planning Department
Mr. P. Lampman, Building Department
Mr. M. Watson, Real Estate Division, Property
Department
Mr. B. Allick, Building Department
Mr. J. Robinson, Community Development
Department
Mrs. N. Chapple, Architectural Historian,
L.A.C.A.C., Planning Department
Mr. K. Brenner, Regional Engineering Department
Mr. R. Karl, Traffic Department
Ms. L. Lawrence, City Solicitor's Department
Mr. P. Mallard, Planning Department
Mr. E. Matthews, City Treasurer
Mr. W. Wong, Building Department
Mr. N. Adhya, Treasury Department
Mr. P. Fisher, Secretary, Committee of
Adjustment
Mr. L. Harvey, Building Department
Mr. Russ Ferguson, Planning Department
Mrs. Susan K. Reeder, Secretary

The Committee was in receipt of the minutes of their meeting held
Wednesday, 1990 January 3 and Wednesday, 1990 January 24 and approved
these minutes.

Minutes - 1990 January 3,
1990 January 24.

The Committee was in receipt of a report from the Building Commissioner
dated 1990 February 14, respecting Demolition Permit Applications.

Demolition Permit
Applications.

The Committee approved the following:

That the Building Commissioner be authorized to issue demolition
permits for the following properties:

- (a) 1500 Upper Ottawa
- (b) 1514 Upper Ottawa
- (c) 1522 Upper Ottawa
- (d) 1489 Upper Gage
- (e) 1491-1495 Upper Gage

The Committee was in receipt of a report from the Director of Community
Development dated 1990 January 24, respecting Commercial Improvement
Programme and Commercial Facade Loan Programme Selection Criteria.

Commercial Improvement
Programme and Commercial
Facade Loan Programme
Selection Criteria

The Committee approved the following:

- (a) That, the Commercial Improvement Programme Selection Criteria, as shown on the attached marked as Appendix "A", be amended to include a stipulation requiring that a B.I.A., to be eligible under the Programme, must have an annual operating budget with levies averaging not less than one hundred dollars (\$100.) per member per year; and,
- (b) That, the Commercial Facade Loan Programme eligibility requirements be amended to stipulate that the member B.I.A. for each application must have an annual budget with average levies of one hundred dollars (\$100.) each per year per member.

Commercial Facade
Loan Programme
Application - 283, 285,
287 King Street East.

The Committee was in receipt of a report from the Director of Community Development dated 1990 February 6, respecting a Commercial Facade Loan Programme Application for property at 283-285-287 King Street East.

The Committee approved the following:

That a repayable loan, in the amount of forty-five thousand dollars (\$45,000.) be approved under the Commercial Facade Loan Programme for 283-285-287 King Street East, Agommen Ltd., c/o A. Ammendolia, M. Nusca, G. Piccini and F. Zanette. The interest rate will be 6-1/2 percent, amortized over 10 years.

Resolution - City of
York - Rental Housing
Protection Act.

The Committee was in receipt of a resolution from the City of York forwarded to them from the Finance & Administration Committee with respect to the Rental Housing Protection Act.

The Committee was also in receipt of comments on this matter from the Director of Community Development in his report dated 1990 January 17.

Following discussion on this matter by the Committee, it was agreed that this item would be tabled in order that representatives from the Tenants Association and other Associations interested in this matter could be invited to a meeting of the Planning and Development Committee, in order to give their comments on this issue. It was also indicated that Mr. John Robinson of the Community Development Department, would work with the Secretary on who should be notified to attend a meeting on this item.

Release of Building
Covenants - 175 Nebo
Road.

The Committee was in receipt of a report from the Director of Property dated 1990 February 6, respecting Release of Building Covenants for property at 175 Nebo Road.

The Committee approved the following:

That the City Solicitor be authorized to prepare a Quit Claim Deed from the City of Hamilton to the present owners, Aiden Tuite, William Pickard, Luigi Centurami and 441138 Ontario Limited, of Lot 38, Plan M-227, 175 Nebo Road to release the property from the construction covenants to the City as contained in Deed Instrument #226207 L.T. Registered 1988 June 15.

Release of Building
Covenants - 15 Goderich
Road.

The Committee was in receipt of a report from the Director of Property dated 1990 February 6, respecting Release of Building Covenants for property at 15 Goderich Road.

The Committee approved the following:

That the City Solicitor be authorized to prepare a Quit Claim Deed for the City of Hamilton to the present owner, R. G. Duffie Contracting Ltd. of 15 Goderich Road, Hamilton, Ontario to release the property from the construction covenants to the City as contained in Deed Instrument #382500 C. D. Registered on 1986 October 8.

Authorization to include
the Industrial Condomin-
ium Clause - City Sale -
Anchor Road.

The Committee was in receipt of a report from the Director of Property dated 1990 February 6, respecting Authorization to Include the Industrial Condominium Clause - City Sale - Anchor Road.

The Committee approved the following:

That Section 12 of the 16th Report for 1988 of the Planning and Development Committee as approved by City Council on 1988 July 26, be further amended as follows:

- (a) That the Offer to Purchase agreement dated 1988 June 17, be amended by adding the following clause:

"Notwithstanding paragraphs 6.3 (1) (2) (3) hereof, should the Transferee decide to construct an industrial condominium, in accordance with municipal, regional, and provincial requirements, the Transferee shall be entitled to enter into Agreements of Purchase and Sale in respect of the units to be contained within such condominium and shall further be entitled to transfer such condominium units to such Purchasers without such sales or transfers being deemed an act or acts of default hereunder".

- (b) That the Purchaser's solicitor must prepare all necessary agreements and deeds subject to the approval of the City Solicitor.

- (c) That any costs incurred by the City in this regard will be borne by the Purchaser.

The Committee was in receipt of a report from the Director of Property dated 1990 February 6, respecting Authorization to Include the Industrial Condominium Clause - City Sale - for property on Upper Ottawa Street.

Authorization to include the Industrial Condominium Clause - City Sale - Upper Ottawa Street.

The Committee approved the following:

That Section 8 of the 17th Report for 1989 of the Planning and Development Committee as approved by City Council on 1989 July 25, be further amended as follows:

- (a) That the Offer to Purchase agreement dated 1989 June 20, be amended by adding the following clause:

"Notwithstanding paragraphs 6.3 (1) (2) (3) hereof, should the Transferee decide to construct an industrial condominium, in accordance with municipal, regional, and provincial requirements, the Transferee shall be entitled to enter into Agreements of Purchase and Sale in respect of the units to be contained within such condominium and shall further be entitled to transfer such condominium units to such Purchasers without such sales or transfers being deemed an act or acts of default hereunder".

- (b) That the Purchaser's solicitor must prepare all necessary agreements and deeds subject to the approval of the City Solicitor.

- (c) That any costs incurred by the City in this regard will be borne by the Purchaser.

The Committee acknowledged that Section 18 of their Agenda was deleted.

Section 18 deleted.

The Committee was in receipt of a report from the City Treasurer dated 1990 February 1, respecting Final Release of Holdback.

Final Release of Holdback - Delta Ready Mix Limited.

The Committee approved the following:

That total holdback in the amount of \$1,814.52 be released to Delta Ready Mix Limited, for the completion of Purchase Order No. 23340, for the Downtown Hamilton Action Plan III B, pending receipt by the Treasury of the standard release forms from the Contractor and City Solicitor's Department.

Proposed Draft Plan of
Condominium - south-west
corner of Bigwin Road
and Pritchard Road.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 February 6, respecting Proposed Draft Plan of Condominium for property at the south-west corner of Bigwin Road and Pritchard Road.

The Committee approved the following:

That approval be given to Proposed Draft Plan of Condominium Application SA-89-23, "Robinson Place", John Bruce Robinson Construction Ltd., owner, to establish a draft plan of condominium located at the south-west corner of Bigwin Road and Pritchard Road, subject to the following conditions:

- (a) That this approval apply to the Plan prepared by A. J. Clarke and Associates Ltd., dated 1989 September 27.
- (b) That the owner satisfy all financial requirements of the Regional Municipality of Hamilton-Wentworth.

Proposed Draft Plan of
Condominium - north-east
corner of Jackson Street
West and Caroline Street
South.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 February 13, respecting Proposed Draft Plan of Condominium for property at the north-east corner of Jackson Street West and Caroline Street South.

The Committee approved the following:

That approval be given to Proposed Draft Plan of Condominium Application SA-89-24, "Bentley Place", Branocon (Hamilton) Ltd., owner, to establish a draft plan of condominium located at the north-east corner of Jackson Street West and Caroline Street South, subject to the following conditions:

- (a) That this approval apply to the plan prepared by A. J. Clarke and Associates Ltd., dated 1989 August 29.
- (b) That the owner satisfy the financial requirements of the Regional Municipality of Hamilton-Wentworth.

Proposed Draft Plan of
Condominium - north-west
corner of Broughton
Avenue and Grayrocks
Avenue.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 February 9, respecting Proposed Draft Plan of Condominium for property at the north-west corner of Broughton Avenue and Grayrocks Avenue.

The Committee approved the following:

That approval be given for Proposed Draft Plan of Condominium Application SA-89-27 by "Kingsmount Place Properties I Inc.", owner, to establish a draft plan of condominium located on the north-west corner of Broughton Avenue and Grayrocks Avenue, subject to the following conditions:

- (a) That this approval apply to the plan prepared by J. D. Barnes Limited dated 1989 October 10, showing 33 Townhouse Units.
- (b) That the owner satisfy all financial requirements of the Regional Municipality of Hamilton-Wentworth.

Designation - 33
Undermount Avenue.

The Committee was in receipt of a report from the Secretary of the Local Architectural Conservation Advisory Committee dated 1990 January 30, respecting Designation of Property at 33 Undermount Avenue.

The Committee approved the following:

- (a) That approval be given to the "Intent to Designate" the single-family dwelling at 33 Undermount Avenue as a property of historical and architectural value, pursuant to the provisions of the Ontario Heritage Act, 1983 as outlined in the "Reasons for Designation" attached herewith and marked as Appendix "B"; and,

- (b) That the City Solicitor be authorized and directed to take appropriate action to have this property designated pursuant to the provisions of the Ontario Heritage Act, 1983.

NOTE: L.A.C.A.C. is recommending approval of this designation in response to a written request for designation from the owners of the house.

At this point the Committee adjourned and re-convened in the City Hall Council Chambers to hear Zoning Applications.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 February 12, respecting Zoning Application 89-117, for property at 322 Mount Albion Road. The report also contained a recommendation with respect to Subdivision Application 89-29, for a Draft Plan of Subdivision on the west side of Mount Albion Road, south of Kingswood Drive.

The Committee approved the following amended recommendation which ensures that the property will always maintain the "C" Designation.

That approval be given to amended Zoning Application 89-117, J. Peace, owner, requesting changes in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District modified (Block "1"), and "C" (Urban Protected Residential, etc.) District (Block "2") to recognize the existing two-family dwelling (Block "1") and to permit the development of the remaining lands for single-family dwellings (Block "2"), for the property located at 322 Mount Albion Road, as shown on the attached map marked as Appendix "C", on the following basis:

- (a) That Blocks "1", "2" and "3" be rezoned from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District;
- (b) That the "C" (Urban Protected Residential, etc.) District regulations as contained in Section 9 of Zoning By-law No. 6593, applicable to Block "1", be modified to include the following variance as a special requirement:
 - (i) That notwithstanding Section 9(1), the following additional residential use shall be permitted:
 - (1.) The two family dwelling existing on the date of the passing of the By-law;
- (c) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1162, and the subject lands on Zoning District Map E-88 be notated S-1162;
- (d) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-88 for presentation to City Council;
- (e) That the proposed change in zoning is in conformity with the Official Plan of the Hamilton Planning Area.

NOTE: The purpose of the by-law is to provide for changes in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District modified (Block "1") and "C" (Urban Protected Residential, etc.) District (Block "2"), for the property located at 322 Mount Albion Road.

In addition, a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District (Block "3") is provided for the remnant parcel of land at the south end of 316 Mount Albion Road.

Zoning Applications.

ZA 89-117 - 322 Mount Albion Road.
SA89-29 - west side of Mount Albion Road, south of Kingswood Drive.

ZA89-117 - 322 Mount Albion Road.

The effect of the by-law is to recognize the existing two-family dwelling (Block "1"), to permit the development of the remaining lands for single-family dwellings (Block "2"), and to establish uniform zoning across the property at 316 Mount Albion Road (Block "3").

Proposed Draft Plan of Subdivision 89-29 - west side of Mount Albion Road, south of Kingswood Drive.

The Committee also approved the Proposed Draft Plan of Subdivision:

- (a) That approval be given to Proposed Draft Plan of Subdivision Application SA-89-29, Henry Young, prospective owner, to establish a draft plan of subdivision on the west side of Mount Albion Road south of Kingswood Drive, subject to the following conditions:
 - (i) That approval apply to the plan prepared by MacKay, MacKay and Peters Limited, dated 1989 October 30, showing 15 lots, one block (Block "16") for development with adjacent lands and revised to show a 0.3m reserve (Block "17") along the open side of the road allowance.
 - (ii) That the street be dedicated to the City of Hamilton as public highway on the final plan.
 - (iii) That the street be named Glen Forest Drive.
 - (iv) That the final plan conform to the zoning by-law approved under The Planning Act.
 - (v) That such easements as may be required for utility or drainage purposes be granted to the appropriate authority.
 - (vi) That the owner provide the City of Hamilton with a certified list showing the net area and width of each lot and block in the final plan.
 - (vii) That the owner make a cash payment in lieu of the conveyance of 5% of the land included in the final plan to the City of Hamilton for park purposes.
 - (viii) That Block "16" be developed in conjunction with abutting lands.
 - (ix) That the open side of the road allowance be terminated with a 0.3m reserve (Block "17") to be conveyed to the City of Hamilton and be held by the City until required for development of the adjacent lands.
 - (x) That the street align with the existing streets to the north and south.
 - (xi) That the owner shall erect a sign in accordance with Section XI of the subsequent Subdivision Agreement prior to the issuance of a final release by the City of Hamilton.
 - (xii) That the owner agree in writing to satisfy all the requirements, financial and otherwise, of the City of Hamilton.
- (b) That the Subdivision Agreement be entered into by the Corporation of the City of Hamilton and the owner to provide for compliance with the conditions of approval established by the Hamilton-Wentworth Region with respect to this application (SA-89-29), Henry Young, prospective owner, proposed draft plan of subdivision, and that the City execute the agreement when the said conditions have been met and the City's share of the cost of installing municipal services has been approved by City Council.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 February 12, respecting Zoning Application 89-118, for property at 335 Rymal Road East.

ZA89-118 - 335 Rymal Road East.

The Committee was also in receipt of a Submission dated 1990 February 14, from J. Jackson, Urbex Management Limited stating that they have no objection to the above-noted Zoning Application.

The Committee then approved the following:

That approval be given to Zoning Application 89-118, John Bellfontaine, owner, for a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District, for property located at 335 Rymal Road East, as shown on the attached map marked as Appendix "D", on the following basis:

- (a) That the subject lands be rezoned from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District;
- (b) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-18D for presentation to City Council;
- (c) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

NOTE: The purpose of the By-law is to establish a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District for property located at 335 Rymal Road East.

The effect of the By-law is to permit development of the rear part of the subject lands for single-family detached development.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 February 14, respecting Zoning Application 89-121, for property at 1035 Main Street East.

ZA 89-121 - 1035 Main Street East.

The Committee approved the following:

That approval be given to Amended Zoning Application 89-121, Gerald and Alice Mulligan, owners, and Ann Kowalchuk, lessee, for a further modification to the established "E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations, to permit three dwelling units and a gift shop, for property located at 1035 Main Street East, as shown on the attached map marked as Appendix "E", on the following basis:

- (a) That the "E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations as contained in Section 11A of Zoning By-law No. 6593, as amended by By-law No. 81-187, applicable to the subject lands, be modified to include the following variances as special provisions:
 - (i) That notwithstanding Section 11A(1)(iii) of Zoning By-law No. 6593, a gift shop shall also be permitted;
 - (ii) That notwithstanding Section 19(iii) of Zoning By-law No. 6593, the dwelling unit occupying the first floor of the existing building shall have a minimum floor area of 45 m²;
 - (iii) That notwithstanding Section 18A(7) of Zoning By-law No. 6593, each required parking space shall have a minimum width of 2.6 m (8.5 feet);
- (b) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-746a, and the subject lands on Zoning District Maps E-44 and E-45 be notated S-746a;

(c) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Maps E-44 and E-45 for presentation to City Council; and,

(d) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

NOTE: The purpose of the proposed By-law is to provide for a further modification to the "E-1" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations for property located at No. 1035 Main Street East.

The effect of the By-law is to permit a gift shop and three dwelling units within the existing building.

In addition, the By-law provides the following as special provisions:

(a) That each of the required four parking spaces shall have a minimum width of 2.6 m (8.5 feet), whereas the By-law requires 2.7 m (8.85 feet); and

(b) The first floor dwelling unit shall have a minimum floor area of 45 m² (488 square feet), whereas 65 m² (699 square feet) is required.

ZA89-127 - 1543
and 1549 Rymal Road East
and 1519, 1543 and 1549
Rymal Road East.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 February 14, respecting Zoning Application 89-127, for property at 1543 and 1549 Rymal Road East and 1519, 1543 and 1549 Rymal Road East.

The Committee approved the following:

That approval be given to Zoning Application 89-127, Ferrell Builders Supply, owner, for a modification to the "M-12" (Prestige Industrial) District regulations for Block "1", a modification to the "M-14" (Prestige Industrial) District regulations for Block "2", a further modification to the "M-12" (Prestige Industrial) District regulations for Block "3", and a further modification to the "M-14" (Prestige Industrial) District regulations for Block "4", to permit outside storage of materials in conjunction with the building supply store at 1543 and 1549 Rymal Road East (Blocks "3" and "4"), for property located at 1519, 1543 and 1549 Rymal Road East, shown as Blocks "1", "2", "3" and "4" on the attached map marked as Appendix "F", on the following basis:

(a) That the "M-12" (Prestige Industrial) District and "M-14" (Prestige Industrial) District regulations, as contained in Sections 17D and 17F of Zoning By-law No. 6593 respectively, applicable to Blocks "1", "2", "3" and "4", be modified to include the following variances as special requirements:

(i) That notwithstanding Table 4 as identified in Section 17D(1)(b) and Section 17F(1)(b) of Zoning By-law No. 6593, the following uses shall be permitted to have an ancillary retail sales area not exceeding 25% of the gross floor area of the building:

<u>SIC Identification Number</u>	<u>Commercial Use</u>
5621	Hardware, Wholesale
5622	Plumbing, Heating and Air Conditioning, Equipment and Supplies Wholesale

5631	Lumber, Plywood and Millwork, Wholesale
5632	Paint, Glass and Wallpaper, Wholesale
5639	Other Building Materials, Wholesale

- (ii) That notwithstanding Section 17D(2)(e)1.(i) of Zoning By-law No. 6593, there shall be provided and maintained a landscaped area in the required front yard having a depth of not less than 12.0 m abutting the street line, except for any area used for access driveways.
- (iii) That notwithstanding Sections 17D(2)(h)(4) and 17F(2)(h)(4) of Zoning By-law No. 6593, the total area used for storage outside of a building or structure shall not exceed 62% of the lot area subject to the following requirements:
 - (1.) That the outside storage area shall be used exclusively for building supplies such as, but not limited to, sand, gravel, concrete block, bricks, lumber, and equipment;
 - (2.) That no stockpile of building supplies located in the outside storage area shall exceed a height of 4 metres;
 - (3.) That Section 18(3)(vi) shall not apply to the outside storage area.
- (iv) That notwithstanding Sections 17D(2)(h)(2) and 17F(2)(h)(2) of Zoning By-law 6593 every side yard or rear yard that is used for outside storage of any material or any equipment shall be screened from external view by the erection and maintenance of a chain link fence not less than 1.5 m in height and not more than 3.0 m in height and a landscaped area with a planting strip having a minimum width of 1.2 m along the side and rear lot lines adjacent to the outside storage area shall be required;
- (v) That notwithstanding Section 17D(2)(h)(1) and 17D(2)(h)(2) of Zoning By-law No. 6593, outside storage shall be permitted in the non-required front yard on Block "1" only, provided that it is screened from external view by a chain link fence not less than 1.5 m in height and not more than 3.0 m in height.
- (vi) That Sections 17D(2)(i) and 17F(2)(i) of Zoning By-law No. 6593 shall not apply.
- (b) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1163, and that the subject lands on Zoning District Maps E-69D and E-69E be notated S-1163;
- (c) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Maps E-69D and E-69E for presentation to City Council;
- (d) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area; and,

- (e) That By-law No. 86-59 be repealed in its entirety.

NOTE: The purpose of the proposed By-law is to provide for a modification to the "M-12" (Prestige Industrial) District regulations for Block "1", a modification to the "M-14" (Prestige Industrial) District regulations for Block "2", a further modification to the "M-12" (Prestige Industrial) District regulations for Block "3", and a further modification to the "M-14" (Prestige Industrial) District regulations for Block "4", for property located at 1519, 1543, and 1549 Rymal Road East.

The effect of the By-law is to permit additional outside storage of materials (Blocks "1" and "2") in conjunction with the adjoining building supply store (Blocks "3" and "4"). It also allows for not more than 62% of the lot area to be used for outside storage of materials. Presently, outside storage of materials comprising not more than 5% of the lot area for Blocks "1" and "2", and not more than 55% of the lot area for Blocks "3" and "4" is permitted. Further, the By-law permits the retail sale of lumber and building materials in an area not exceeding 25% of the gross floor area of the building.

In addition, the By-law provides for the following special requirements:

- (a) The outside storage area shall be exclusively used for building supplies, such as sand, gravel, concrete blocks, bricks, lumber, and equipment.
- (b) No stockpile of building supplies shall be higher than 4 m, whereas there is presently no limitation on the maximum height.
- (c) The outside storage area may be located in the required side and rear yards instead of having a minimum setback from the side and rear lot lines.
- (d) The outside storage area shall be screened from external view by providing a 1.5 m to 3.0 m high chain link fence and a 1.2 m wide landscaped area with a planting strip along the side and rear lot lines.
- (e) The outside storage area may be located in the front yard on Block "1" only. A minimum 12.0 m landscaped area abutting Rymal Road is required, and a chain link fence between 1.5 m to 3.0 m in height is also required.
- (f) Outside storage and the erection of an industrial building shall be permitted within 90 m of land used solely for residential purposes.

ZA89-110 - 220
Burlington Street East.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 February 12, respecting Zoning Application 89-110, for property at 220 Burlington Street East.

Report of the circularization was given as follows:

185 notices sent	4 in favour	2 opposed
------------------	-------------	-----------

Mr. Silver, Solicitor for the owner, spoke to the Committee on this application. He advised that he is not representing the Developer who originally built the building. He spoke on the various reasons why this application should be approved and indicated that parking can be accommodated in the rear of the property. Mr. Silver advised that he feels that the building enhances the area as it is the only new building in the area and indicated that all three units are presently occupied.

General discussion then ensued on this matter and it was indicated that this building is a legal duplex, but not a triplex as it is presently being used.

Further discussion then ensued on the chronology from the building's original construction as a single-family house to its present existence as a triplex.

Alderman Christopherson indicated that he will have his Affordable Housing Task Force review this type of occurrence.

The Committee then approved the following DENIAL recommendation:

That Zoning Application 89-110, Dennis Gordon Le Blanc, owner, requesting a modification to the established "D" (Urban Protected Residential - One and Two-Family Dwellings, Townhouses, etc.) District for property located at 220 Burlington Street East, as shown on the attached map marked as Appendix "G", be DENIED for the following reasons:

- (a) It conflicts with the intent of the Official Plan, in that it represents an intrusion of a 3 family dwelling into an area which is predominantly occupied by single-family dwellings;
- (b) It would result in the entire front yard being paved over to accommodate the 4 required parking spaces which would detract from the established residential streetscape of the area south of Burlington Street East, and which is prohibited by the Zoning By-law; and,
- (c) Approval of the application would encourage other similar applications which, if approved, would undermine the intent of the By-law and change the character of the area.

NOTE: Alderman Christopherson and Alderman Smith opposed.

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1990 February 12, respecting Zoning Application 90-01, for property at 1489 to 1495 Upper Gage Avenue.

ZA90-01 - 1489 to
1495 Upper Gage Avenue.

The Committee approved the following:

That approval be given to Zoning Application 90-01, 815488 Ontario Inc. (Nella Bradt), prospective owner, requesting the removal of the 'H' (Holding) symbol provision for property located at 1489 to 1495 Upper Gage Avenue, under Section 35(1) of The Planning Act, and the City Solicitor be directed to prepare a By-law for submission to City Council for property located at 1489 to 1495 Upper Gage Avenue, as shown on the attached map marked as Appendix "H".

NOTE: The purpose of this By-law is to remove the 'H' holding symbol, for the property located at 1489 to 1495 Upper Gage Avenue. The holding provision prohibits the development of the lands until the installation of all such municipal sewers as the City deems necessary. In this regard, municipal sewers are available to service the subject lands.

The effect of the By-law is to permit the development of the subject lands for a 32 unit apartment building in accordance with the "DE-3" (Multiple Dwellings) District. The By-law also allows, as a special provision, a maximum building height of four storeys.

Alderman Ross spoke to the Committee with respect to his concerns on the Subdivision Plans for Park Development and the Abbey Hill Farms area.

Subdivision Plans -
Park Development -
Abbey Hill Farms.

The Committee then agreed that staff should re-enter negotiations and discussions with the developer of these lands, in order to ensure that there is continuity between the original plans for this area and the developer's work and construction of this area.

Current Budget Process.

The Committee was in receipt of an Information Report from the City Treasurer dated 1990 February 21, outlining the Current Budget Process.

The Committee was in receipt of a Presentation by the Building Department through an overhead projection type of venue on the Building Department Statistics.

The Committee was in receipt of a report entitled "1990 Service Reduction Proposals for Review by the Planning and Development Committee".

The Committee was in receipt of a budget package entitled "1990 Estimates of the Planning and Development Committee to be Reviewed 1990 February 21".

The Committee was in receipt of a package entitled "1990 Expansion Service/Programme Package for Review by the Planning and Development Committee".

The Committee was in receipt of a document entitled "City of Hamilton Planning Services Work Programme 1990".

The Committee then discussed the 1990 Current Budget Proposed Expropriations with Respect to the Mandate for the Planning and Development Committee and the Departments responsible to them.

Current 1990 Budget decisions.

Building Department

The following decisions were made:

(a) Building Department

- | | |
|---|-------------|
| - 1990 Appropriation for Expenditures, deduct | \$ 100,000. |
| - Freeze Travel to 1989 Level, at a deduction of | 520. |
| - Deduct Licence Inspectors Position, at a deduction of | 40,020. |
| - 1990 Revenue Estimates, raised to - | 4,000,000. |

Note: The 1990 Revenue Estimate as recommended by staff was \$3,755,000.

With respect to the Building Department Budget, the Committee requested that the Building Commission report back to the Committee on how the deductions to the 1990 Appropriation will be made within the Building Department.

Committee of Adjustment

(b) Committee of Adjustment

- | | |
|---|------------|
| - 1990 Appropriation for Expenditures approved as recommended by staff at | \$ 11,000. |
| - 1990 Estimate for Revenues should be adjusted to reflect the recent fee increase from \$180. to \$250. per application. | |

(c) Community Development Department

Community Development
Department

- 1989 Actual should be increased from \$127,521.
to \$157,903.

Note: This increased Actual was provided by the
Community Development Department.

- 1990 Appropriation for Expenditures approved as
per the staff recommendation at 550,980.

Note: The Committee agreed that the possibility of
developing a Housing and Development type of
Department out of the Community Development
Department and other types of Departments
would be reviewed upon the impending retirement
of the Director of Community Development.

- Freeze Travel to 1989 Level,
at a deduction of 350.

(d) Planning

Planning Department

- 1990 Revenue Estimates - Zoning Applications
to be increased from \$105,000 to 119,100.

Note: This increase reflects the recommendation
of the Planning Department, as a result
of fee increases.

- Account No. 56001 - Printing Reports - staff
recommended 1990 Expenditure Expropriation of
\$17,680. to be reduced to 15,000.

- Account No. 56103 - Operating Supplies - staff
1990 Expenditure Expropriation recommendation
of \$22,000. to be reduced to 20,000.

- Account No. 55406 - Consultants - staff
recommendation for 1990 Expenditure
Expropriation of \$10,000. to be reduced to 8,000.

- Account No. 55304 - Exhibits and Displays -
staff recommendation for a 1990 Expenditure
Expropriation of \$1,140. to be reduced to 800.

- A request to convert an existing Planner III
position to a Junior Landscape Architect
position was referred back to the Planning
staff in order that the appropriate
recommendation to the Committee can be made
as opposed to the inclusion of this request
in the Letter of Transmittal.

(e) Mayor's Award Programme

Mayor's Award
Programme

- 1990 Appropriation for Expenditure,
approved as per staff recommendation at 1,200.

(f) Hamilton Housing Company Limited

Hamilton Housing
Company Limited

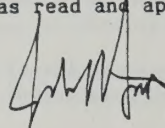
- Net Deficit for the 1990 Appropriation,
to be reduced by 10,000.

Note: The 1990 Appropriation by staff
was listed as \$24,650., and the
Committee directed that this
deficit be reduced to an amount
of \$14,650.

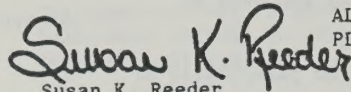
Adjournment.

There being no further business, the meeting then adjourned.

Taken as read and approved,



ALDERMAN J. SMITH, CHAIRMAN
PLANNING AND DEVELOPMENT COMMITTEE



Susan K. Reeder
Secretary
1990 February 21



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25070	YELLOW/JAUNE	BY2507
25071	BLACK/NOIR	BG2507
25072	BLUE/BLEU	BU2507
25073	R. BLUE/BLEU R.	BB2507
25074	GREY/GRIS	BD2507
25075	GREEN/VERT	BP2507
25077	TANGERINE	BA2507
25078	RED/ROUGE	BF2507
25079	X. RED/ROUGE X.	BX2507

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